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Traditional Structures in Local Governance for Local Development¹

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Berne, Switzerland, May 2004

This report has been commissioned by World Bank Institute's Community Empowerment and Social Inclusion Learning Program (CESI). Karen Sirker and Alex Widmer from the CESI staff provided many of the documents and contributed substantially to the final editing of the paper.

We would like to thank the Swiss Agency for Development and Cooperation (SDC) for the generous financial contribution to this Desk Study as part of the WBI-SDC Learning Partnership and Robert Ebel (WBI) for launching the idea of the Learning Program this Desk Study belongs to.

¹ The comments and critiques that were made by the many participants from the workshop on Traditional authorities and local governance in Berne, Switzerland in February 2004 were very valuable and helpful for the final report. Furthermore we would like to thank Karin Gilland, Isabelle Steffen and Monika Spinatsch and Utako Hanna Saoshiro for their support in finalising this report.

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1 Introduction

This paper examines one aspect of local development, the interaction between local governments and existing traditional structures. Successful local development has been identified as essential to meet the Millennium Development Goals (MDG) outlined at the UN Millennium Summit in 2000, and the World Bank Poverty Reduction Strategy (PRSP). This implies a stronger focus on decentralisation, community empowerment and local governance in development work.

Due to the growing interest and support for local development in recent years, many countries have passed legislation to decentralise governmental structures and it has been supported by many international agencies with their own activities. The way in which decentralised structures are organized and how decentralisation policies are implemented determines the resources available at the local level and the functions of local governments.

It is clear that successful decentralisation is not just about building good political institutions, it is also essential to improve overall governance at the local level. This includes meaningful participation of the local population and their inclusion into decision making processes to foster transparency, accountability and responsiveness, and to guarantee efficient and effective policy-implementation. Meaningful inclusion of all relevant actors at the local level is decisive for successful local development, to ensure that different local power structures work with each other.

The shift in focus from the national to the local level makes a closer look at the social, political and economic dynamics in communities more important. In developing countries the state is often weak, and the penetration of the state in rural areas has been poor. Decentralisation in these cases is not only about shifting power and resources to the local level and making local authorities more effective. It is often the case that the capacity for good local governance also has to be built in areas where governmental activities in general have been very limited (see Appendix for a further discussions on the hopes and shortfalls of decentralisation).

The absence of the state does not mean that there is no social and political organization in such countries at the local level. Informal and formal traditional structures have always played an important role and still do many countries. In the rural areas of many developing countries with a weak presence of the state, traditional structures survived the colonial as well as the post-colonial period, and people maintained their traditional forms of social organisation.

Traditional structures remain very important in organizing the life of the people at the local level despite modern state structures. Traditional authorities, for example, regulate village life, control access to land, and settle disputes. The existence of traditional authorities means that both the decentralisation and the strengthening of local governance is not taking place in a vacuum. Recent experience has shown that successful decentralisation has to take existing

traditional structures into account. While the standard view has been that they are a historic burden on the road to modernity, it is now widely recognised that for many people, traditional structures are often more legitimate than the modern state.

In many cases, people accept traditional structures because of central government failures in building functioning structures at the local level. To rely on traditional norms and rules is not only comprehensible but also quite rational, especially if there is no better alternative. If the state is unable to improve people's lives substantially on an everyday basis, it is not surprising that people continue to live according to their traditional structures and rules without taking much notice of the central government.

Most people are not familiar with democratic theory and therefore do not immediately embrace democratic principles and rules. They accept procedures when they make a difference to their lives and help to improve their daily situation. Most people also do not make a distinction between traditional and modern structures. We all simultaneously accept different forms of authority for different things in a flexible way. Authorities can include the elders, parents, religious leaders as well as traditional leaders or elected governmental officials. For some issues we will rely on religious leaders, for others we might rely on the state and accept democratic forms of decision making, and for some other matters we might accept the authority of our parents. Different authorities co-exist everywhere and sometimes they might even compete with each other.

In this paper, we will clarify in *chapter 2* the term traditional structure, traditional community and traditional authority. The term "traditional" has a historic meaning, sometimes dating back to pre-colonial times, but traditional societies can be described through specific societal functions of production, distribution, collective security and reproduction, which are different from those of modern societies. Unlike modern structures, the legitimacy of traditional leaders is not rooted in constitutions and electoral processes, but in inheritance or other historical mechanisms of leadership selection.

Chapter 3 discusses principles of good governance such as legitimacy, social inclusion and participation, respect of human rights, the rule of law and division of power, responsiveness, accountability and transparency. These principles are usually related to modern governmental institutions, but it will be shown that traditional structures do not necessarily neglect important aspects like legitimacy, responsiveness or transparency.

Other aspects such as social inclusion of some groups or division of power will be more difficult to meet by traditional authorities. In any case, internal governance of traditional authorities needs to be compared with the reality of local government in developing countries, not with how local governments are supposed to work in theory.

Chapter 4 will present and assess various linkages and formal institutional arrangements between modern state structures and traditional structures. There are models where traditional structures function as local government and are vertically linked to the central government.

There are many forms of formal inclusion such as parallel structures and houses of chiefs at the national and sub-national level, or reserved seats for traditional authorities in some local government bodies.

Chapter 5 will discuss the role of traditional structures in local development. The main “traditional” role of traditional structures is to regulate village life. Modern states, however, have important distributive, redistributive and administrative functions, which traditional structures are not automatically prepared to fulfil. It is possible to give traditional structures a different role than their traditional one if they function well. This could be more effective than trying to establish or to improve modern state structures. However, we have to take into account that functions and resources express a relation of power between different actors in a society or between different levels of government. Changing these functions and the distribution of resources through further including traditional structures in local governance will change the role of traditional structures.

Traditional structures can be important in two different situations. In countries like Sudan, Somalia or East Timor, traditional structures are the only remaining and functioning form of social organization after many years of civil war. In these situations, traditional authorities can help to stabilize a country in a post-conflict situation because it is the only structure that works or is available.

In a development context, we can assume that different authorities co-exist and different forms of interaction or inclusion between traditional authorities and the state can be considered. This study will not look at the possibilities of inclusion of traditional authorities in a post-conflict context, because in a situation where most former structures have collapsed, there is a strong need for social engineering which is not typical for the development context.

The aim of this study is to analyse existing literature and case studies on this topic, in order to clarify the basic concepts of their contents and to identify information gaps.

2 Defining traditional structures, traditional societies and traditional authorities

The purpose of this study is to illuminate the interrelations between traditional authorities and local governance, and how this can contribute to local development. In order to discuss the possible role of traditional structures in decentralized local governance, we will first discuss some definitions of traditional structures and societies. We can then determine what the roles of traditional authorities are within traditional societies.

Traditional Structures and Societies:

“Tradition” primarily has a historic meaning and relates to something that has its roots in the past. Furthermore by referring to “traditional,” we assume that there is a distinction between tradition and modernity. In their study on villages in Nigeria, Olowu and Erero (1995) make the distinction between formal and informal structures or institutions. Formal structures are defined to be directly derived from the modern state, while informal structures are not based on a constitution but nevertheless determine people’s everyday lives and the social, economic and political interaction between them. Traditional or indigenous structures are usually informal, and have a long history, tradition and culture.

It is relatively straightforward to define modern societies as societies that are based on democratic principles, which is manifested in democratic elections. Elected representatives execute power and are given the task of making legislation, while bureaucrats and administrators are expected to implement them. But it is much less clear to define traditional societies, which also refers to indigenous communities. The term “indigenous” is often used in relation to the indigenous population in Latin America, where as traditional communities in Africa are usually referred to as tribes and clans. The distinction between “indigenous” and “traditional” is therefore geographical rather than theoretical.

Several definitions of traditional societies/indigenous peoples rely on the distinction between pre-colonial and colonial/post-colonial times. For example, the International Labour Organisation (ILO) Convention no. 169 states that:

“a people are considered indigenous either

- *because they are descendants of those who lived in the area before colonization; or*
- *because they have maintained their own social, economic, cultural and political institutions since colonization and the establishment of new states.”*

According to the Martínez Cobo Report to the UN Sub-Commission on the Prevention of Discrimination of Minorities (1986), indigenous peoples may be identified as follows:

“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their

ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.”

One of the basic problems with both definitions is that the social and economic organisation of traditional societies have changed throughout pre-colonial colonial, and post-colonial times. Not only is it impossible in many cases to determine what remains from the pre-colonial era, it also does not adequately take into account the changes in societies over time. We cannot therefore narrow down the definition of traditional structures to ones with roots in pre-colonial times that have maintained their structures.

Traditional Society and Leadership:

It is important to make a distinction between traditional societies and traditional leadership. Traditional societies refer to certain basic functions and organization of a society that is different from a modern society. Traditional leadership refers to the execution of power and leadership selection procedures that differ from modern democratic systems.

Traditional leadership and traditional societies do not have to be connected. It is possible to have a society that has changed over time to a very modern industrialized society, while still having traditional leaders that execute power or perform a major function in the lives of the people. For example in some countries, especially in the Middle East region, monarchic traditional authorities have survived although the functioning of society has changed significantly. In many other countries, traditional leaders still play an important role where the majority of its society is no longer traditional and is governed by a democratic national government. This is often the case even in the urban, industrialized regions of a country. Therefore the distinction between traditional and modern cannot be made along the urban-rural dimension in many cases.

The opposite is also possible where a society maintains its basic form of social and economic organisation, but traditional leaders have lost their importance or have disappeared. For example, in many South and Southeast Asian countries, a large part of the population is still involved in subsistence farming, but the traditional forms of governance no longer exist.

The next section will explore more in depth the distinction between tradition and modernity to better understand local governance analytically, which is the precondition for models of co-operation and integration of traditional and modern structures. Most people within these societies most likely do not make this distinction themselves. This is the case because people may accept different sources of authority simultaneously, or accept different authorities for different things in their lives. They might accept state administration for revenue collection and rules about natural resource management, but rely on traditional authorities for the allocation of land and settlement of disputes. The different norms and authorities people follow have to be better understood in order to suggest viable models of co-operation or integration.

2.1 Tradition and modernity: a theoretical approach

While history shows gradual developments from tradition to modernity, we can distinguish them clearly on a theoretical base. This is that *the main societal functions of production, distribution, security and reproduction* are radically different in pre-industrial and industrial societies. Furthermore we observe a radical *institutional change* and a profound *transformation of individual roles* (Linder 2002). These differences are an important analytical tool for an adequate understanding of tradition and modernity.

a) The transformation of main societal functions

We will start with the transformation of main societal functions and institutions.

Table 1. Basic societal functions in traditional and modern society (source Linder 2002)

Societal function	Main institutions responsible in:	
	<i>Traditional, pre-industrial Society</i>	<i>Modern, industrial Society</i>
<i>Production</i>	Family unit of subsistence economy	Private enterprise in market economy State for public goods
<i>Distribution</i>	Primary distribution: Rules of extended family – lineage structures and tribes Secondary distribution: Limited commerce	Primary distribution: Market Secondary distribution: Social state
<i>Collective security, Law and order</i>	Extended family or kinship systems and tribes: Traditional law and powers	State monopoly: Formal law, military, police
<i>Reproduction (Education, Health)</i>	Family and tribe	Family, education and health as public goods from the State

This ideal-type comparison of pre-industrial and industrial societies shows that the development from a traditional, mainly agrarian subsistence-based economy to a modern, industrial market-based economy implies changes that go far beyond the growth of productivity.

In general, extended family and lineage systems or tribes are the core institution of all basic societal functions in the pre-industrial society. The household is the centre of production, and inherited rules of (re-)distribution between both the productive and non-productive members guarantee that children, the elderly, and disabled persons are given care. The same system defines marriage and family norms. Education primarily means familiarization with the traditions and cultural rules inherited from a small community, and learning the skills needed for subsistence production differentiated by age and gender. While tribal leaders guarantee law and order in a larger community, the state ruled by a religious or ethnic elite plays a limited role in assuring collective security by military force.

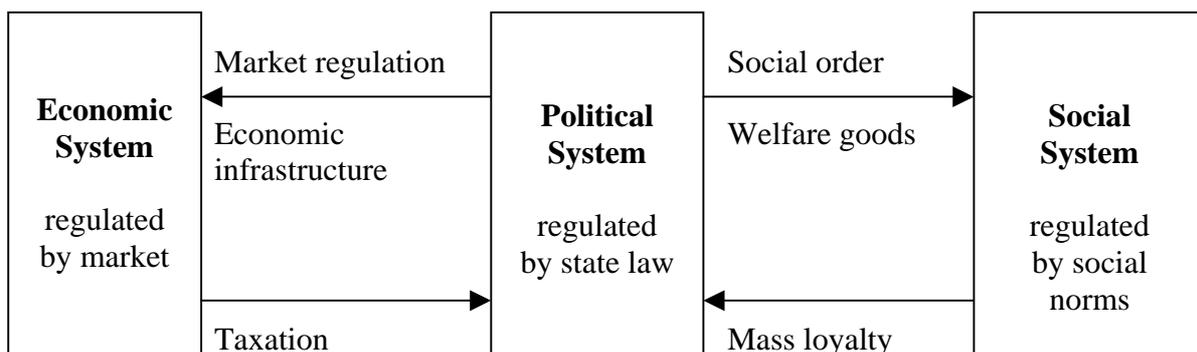
b) The State as a substitute for the family system

In the industrial society, the family and extended family systems begin to lose many of their functions. Production is organised in *enterprises that compete on the market*. Their ability to survive and grow depends on their ability to earn profit and reinvest; peoples standard of living depends on their vocational skills, the opportunities for work offered by enterprises, and the wage needed to buy market goods. Competitive productivity and efficiency, indicated by market prices, determines the primary distribution of income and wealth.

The significant shift is that *the state becomes a substitute for the family system*. This is because a market-based economy requires law and order to be guaranteed on a national level. Technical infrastructure is needed for private enterprises. The state increasingly takes responsibility for reproductive/social functions as it organises education and health services. It establishes a system of secondary distribution to give care to the elderly, the disabled, or the unemployed, which were responsibilities previously within the domain of the family system.

Two factors are essential for the state to function. It must be able to secure sufficient fiscal revenue stemming from industrial market production, and it must seek to sufficiently legitimise its monopoly of establishing law and order. Modern societies are thus based constitutionally on three subsystems that can clearly be distinguished by their essential media; money for the economy, legal power for the state, and cultural values for the social system. Their interactions can be illustrated as follows:

Table 2 Basic relations between the economic, political and social system



c) The transformation of individual roles

Lastly, a fundamental difference between the pre-industrial and industrial society is the social construction of the roles of the individual. Roles define appropriate individual behaviour for different categories of people in differing social situations.

In the pre-industrial society, individual roles are mainly primary roles. They are defined by criteria such as age, gender and lineage, which pre-determine a person’s status in a family sys-

tem or clan. For example, it implies a gendered division of labour, where some activities are attributed to men and others to women. In age roles, the young are expected to care for the elderly, and the mediator has to reach a certain age to be considered a “wise man” capable of resolving conflict. Roles are also determined by lineage, which pass specific rights or duties to certain families and their individuals or to particular social groups.

In industrial societies this construction of roles changes significantly. Individuals have to adopt different roles within the context of a modern economy, state and social system. Sociologically speaking, the new roles are secondary roles that stem from extended divisions of labour.

Roles are built on professions in the modern economic system. Different economic activities form a hierarchy of professions that require differing skill sets and rules for appropriate behaviour. Generally speaking, individual skills count, and in principle all professions are open to both women and men. But the professional system creates a new type of social stratification, because intellectual skills, for instance, are of higher value on the market than physical labour. Equality between men and women thus does not wipe out vertical inequalities and different interests among the higher and lower levels of social strata.

In relation to the state individuals are identified as citizens. In this role they are presumed to have equal rights and certain duties. Electing governments, obeying laws, and paying taxes are not the only aspects of a citizen’s role. Civic culture conceives citizens as individuals that are capable of distinguishing between the private sphere and the realm of public goods, opinion, and decision-making. The institution of the family in its social dimensions are reduced into single households. The industrial economy, money and the welfare state free the individual from many family obligations and protections.

The essential point is that all individuals are presumed to distinguish their different roles as producers/consumers, citizens, and family members. Money can legitimately buy every market good but not public decisions. A husband’s claim of having the law on his side cannot gain lost trust from his wife. The executive of an enterprise is obligated to fire his or her incapable employee even if they have familial ties.

d) Some problems of transition

1. *The divide between tradition and modernity:* Most developing countries are typically divided into a traditional and modernised segment within their societies (Linder 2002). The most important factor for this structural divide is the means of production: the less people are integrated into a modern market economy, the deeper the divide. This can be for two main reasons. First, if the market economy is weak and the proportion of industrial manpower small, the state will lack sufficient fiscal revenues to carry out its “modern” functions. It may therefore be able to deliver services only in parts of the

country or for a small minority, such as the bureaucratic elite. Second, if the majority of the people do not have access to employment in the modern economy, they must rely almost entirely on their family or tribal structures. At the root of many cleavages - rich and poor, urban and rural, educated or less educated - is this structural divide between tradition and modernity. It is an analytical tool that helps us understand many particularities, difficulties, or conflicts in developing countries. Some of the consequences are:

2. *Competing Values:* Many people live in both the modern and traditional worlds, and are often confronted with moral dilemmas. An example could be a surgeon needing to take leave from the hospital because a relative's child is dying. As the director of his clinic, he is a modern professional responsible for hundreds of patients. But as one of the fortunate few with a higher education gained by the help of his extended family, he is obligated to support the many members of his clan and to be *their* doctor. His no show in either situation will result in heavy sanctions from both systems. The surgeon's dilemma is that he has to make a decision that will lead him to break either his professional or traditional ethos. This type of moral dilemma can happen in all societies, but it is particularly felt in situations of "competing moralities" where compatible rules for behaviour are lacking. It could shed a different light on corruption, for instance. In many cases one should be careful with judgements of lacking morality. Corruption must not but *can* be a dilemma of competing moralities. Another example could be a case of villagers hired to work for the government and might steal from the government but would never do so within their own communities. There are accountability mechanisms within tribes or traditional structures that need to be recognized and acknowledged.
3. *Governance and the nation-state:* While post-colonial nation-states represent and politically control the entire country and nation-wide elections provide governments with a democratic legitimacy from the people, governance is often limited. The economic, political and social system is only significant for the people living and working within the "reach" of the government. In many cases a large portion of the population work outside the modern/formal economy and do not pay taxes or receive benefits from the nation-state. These people are dependent on the traditional family or tribe system. As a consequence of this structural divide, the nation-state may be a super-structure that has, despite successful nation- building, only limited support from a majority of the population.
4. *Intercultural conflicts:* Multi-ethnicity is regarded as a salient factor for intra-societal conflicts. Multicultural conflicts can take many forms of what is generally known as "ethno-politics," in which cultural, linguistic or ethnic minorities face discrimination. Several studies have emphasized that there is always an economic interest or issue at

stake underlying the conflicts over ethnicity, language, or other traits of culture. Our above-mentioned analytical tool for the structural divide between tradition and modernity takes this analysis a step further. It allows us to identify the deeper roots of many ethno-political conflicts, typically coinciding as cleavages between rural and urban, agricultural and industrial, or better and less educated segments as conflicts between the "traditional" and "modernised" parts of the population. They represent more than a difference of values and levels of economy, because they reveal differences in terms of production, distribution, public order and reproduction that imply different functions of basic institutions and social roles.

5. *Unintended effects of modern institutions:* Western concepts of economic liberalisation, of the state, or of democracy such as bureaucracy or competition of political parties may have unintended effects if introduced in a top-down fashion. Party competition may become an arena where the traditional elite continues to operate through clientelism, and privatised state enterprises may end up as privately-owned enterprises without market competition. New institutions, especially political institutions, must therefore take into account that modernisation can only be successful if it respects the knowledge, social capital, and conflict resolution mechanisms of traditional culture.

e) Degrees of separation and integration

The role of traditional norms and values depends on how they are linked with modern state structures. There are two main dimensions that are important for placing traditional societies within modern state structures and determine their possible interaction:

- The degree of integration: How integrated or isolated are traditional communities?
- Minority or majority position: Do one or more traditional communities constitute the majority of the citizens living in a country, or are they a clear minority?

In some regions of the world, indigenous/tribal communities are still very isolated, such as in the Amazon or the rain forest zones of Africa. In other parts of the world, for example the United States, Native American societies are strongly linked with the modern world and their traditional structures are severely and constantly threatened. Similar contrasts between modern and traditional structures are found in the urban areas of some African cities, where people relate to modern states and traditional structures simultaneously.

Indigenous communities in many countries of the Americas constitute a clear minority of the overall population. The same is true in various other countries. For example, the Saami people in northern Scandinavia or the Aboriginal people in Australia form a minority within their country. In other parts of the world, especially in Africa and Asia, the majority of people are still attached to traditional pre-colonial forms of society and rule.

The role of traditional structures varies depending on the degree of integration and the minority/majority status. In countries where traditional communities constitute a small minority, the need is primarily to protect the cultural rights and economic base of the traditional communities. The traditional and indigenous communities are often discriminated by the state, and struggle to preserve their own culture. The Native American communities in the US are good examples of this. In the Amazon, some indigenous communities are endangered by their lack of control over natural resource management which threatens to destroy the economic basis for their livelihoods. It is often the case that the cultural rights of these communities are barely recognized or disregarded altogether.

In other parts of the world, where the majority of the citizens are still attached to traditional structures, the issue is more about interaction between traditional and modern structures. People have different frames of reference for different parts of their daily lives. On one hand, there are the modern states with elected representatives, bureaucracies, services, and legal systems. On the other hand there are traditional structures with long-standing historic norms, often linked to spiritual and religious, political, judicial, and economic functions and traditions.

There is a significant variation between and within countries regarding the extent to which people are attached to traditional structures, values and norms, or to the modern state in their daily lives, as well as the degree of influence of one or the other form of authority. In some areas, the degree of attachment to traditional structures depends greatly on the level of urbanisation. In urban areas people are much more likely to be influenced by western structures, values and norms than in rural areas, where the attachment to traditional structures is likely to be stronger. However even in highly urbanized areas, many people might still be very attached to the traditional world.

2.2 Traditional authorities

Traditional authorities are the leaders of traditional communities. The word “traditional” refers to historic roots of leadership, which legitimises the execution of power. There are many existing forms of traditional leadership. In Europe, the rule of kings and nobles was the dominant governing force for a long time until it was gradually replaced by democratic structures. In Africa, Asia, and Latin America, traditional authorities are mostly referred to as chiefs and elders.

“Traditional leadership” is anthropologically defined as including “those political, socio-political and politico-religious structures that are rooted in the pre-colonial period, rather than in the creations of the colonial and post-colonial states. By these key considerations, traditional leaders can include kings, other aristocrats holding offices, heads of extended families, and office holders in decentralized polities, as long as their offices are rooted in pre-colonial states and other political entities” (Ray 2003b: 2f).

Traditional forms of authority differ from the modern state in that the leadership in modern societies are usually elected or appointed by elected officials, while traditional leadership is usually inherited or appointed. Traditional leaders are not subject to an electoral process, although some are subject to accountability mechanisms.

Modern states and traditional leadership have different sources of legitimacy. In traditional leadership legitimacy is rooted in history and culture, often combined with religious/divine or sacred references. Legitimacy of leadership in modern societies is based on elections and embedded in constitutional and legal procedures and rules.

We will focus on two dimensions that are important in relation to traditional leaders:

- *Traditional forms of leadership selection.* In general, traditional authorities are often perceived as chiefs or kings who have inherited their title from their fathers, then passed on to their sons. There are a great variety of traditional forms of leadership. Some of the titles of traditional leaders can be inherited by an individual person or within a family. Other common forms of traditional leadership are not inherited but are selected by the elders in a society, or the people themselves can choose or influence the selection of the traditional leaders. In other cases, elected government institutions approve or even appoint chiefs.
- *Functions of traditional leaders.* In the latter case, though the leadership selection is by the elected government, the functions of the leaders are within the traditional domain. Their functions are often related to land allocation, natural resource management and dispute settlement, but their oversight can extend beyond these functions. In many cases traditional leaders also serve as spiritual and religious leaders.

The process of traditional leadership selection has often been more stable in many cases than the leadership functions themselves. But this does not mean that the process of leadership selection is not open to change. In South Africa or Botswana, for example, the process has changed to allow previously excluded women to be able to become chiefs.

BOX. There is great variation in the process of leadership selection. In Niger and Senegal, chiefs hold their positions for life. They neither represent nor are accountable to the village as a whole. In Niger, only members of an elite lineage, or “caste,” can become chiefs. In Burkina Faso and Mali, the process for choosing village council presidents and chiefs appears to create a more accountable system due to periodic elections. In Mali, however, chiefs are effectively administrative appointees confirmed by periodic local elections under recent decentralization laws (Ribot 1999: 10).

The functions of traditional leaders have been constantly adapted to accommodate new circumstances, as the economic and social organization of societies have changed particularly over the last century. Traditional leaders in many parts of the world have managed to respond to various external political changes and pressures and maintained their position within society.

There are numerous examples where traditional leaders have adapted new functions. In some cases, they have become involved in the activities attributed to the modern state, such as modern education, basic service delivery, or infrastructure provision. More recently it is evident that traditional leaders have regained relevance, not only because development agencies are looking for possible partners at the local level, but also because many central governments are recognizing their important role in local governance.

When looking at the development and change of traditional leadership over time, we will separate them into three distinct phases: “pre-colonial,” “colonial,” and “post-colonial.”

Pre-colonial: In this period there were many forms of social organisation, which were in continuous transformation and development. Pre-colonial traditional authorities derived their authority from a variety of sources: rights of conquests, control over land, direct descent from great ruling ancestors, or membership in a particular ruling family.

Colonial: Pre-colonial states and other polities were then integrated into various components of the colonial state. In many cases the colonial rulers denied or ignored existing structures and tried, more or less successfully, to establish new ones. Often the traditional communities and indigenous peoples had their political leadership turned into instruments of colonial rule for the benefit of the empires and used to implement their policies of colonial rulers (Ray 2003b: 3). They relied on village chiefs and disproportionately shifted power to them. The benefit for the chiefs in turn would be, for example, that they could keep a portion of the revenues that they collected for the colonial rulers. Overall, using traditional structures was an ideal way for the colonialists to gain control over the local population (Ribot 1999: 8f).

Although they were partially transformed, colonial rulers usually did not manage to fully eliminate traditional pre-colonial structures despite their efforts.

BOX. Ray and Reddy (2003) in their “Grassroots Governance? Chiefs in Africa and the Afro-Caribbean” cite various cases where colonial rulers implemented an African form of “traditional” rule. To quote, “In cases [...] in Cameroon and Northern Ghana, colonial administrators randomly selected individuals for their role of communication channel, and gradually started calling them chiefs. In doing so, colonial administrators tended to overlook or remain unaware of the significance of other types of non-political officeholders such as the earth-shrine priests or warlords” (p. 2). Another example is in the Congo, where “the Belgians frequently appointed chiefs over groups that had no tradition of chieftaincy” (Beke 1999: 76).

Post-colonial. There still remain many variations in the level of acceptance and recognition of traditional authority in modern states. Most often the new government did not recognise traditional authorities after independence. In Latin America, indigenous communities were not given rights and were exploited by the new regimes. In Africa, new governments consisted mainly of modern urban ruling elites educated in the western world who placed little importance on local traditions and removed traditional leaders from formal political structures. Where traditional leaders had served the colonial rulers, they were regarded as corrupted by the previous regimes. But “where traditional leaders/chiefs thus survived into the period of the colonial state and into the post-colonial state, they retained sources of political legitimacy rooted in the pre-colonial period” (Ray 2003b): 4f).

The general perception of traditional structures is a picture of societies whose norms, values and internal organization date back hundreds of years. While this might be true in some cases, traditional societies, as all societies inevitably change over time. Historic records of these societies are often not available, especially when written documents do not exist. The lack of historic records and the transformation due to internal and external pressures therefore makes it difficult to determine what exactly is “modern” and what is “traditional.”

Ranger, Vaughan, and Kirk-Greene (1993) highlight that what counts as a tradition may change over time. They state, “Customary law and ethnicity, religion and language were imagined, by many different people and over a long time. These multiple imaginations were in tension with each other and in constant contestation to define the meaning of what had been imagined – to imagine further. Traditions imagined by whites were re-imagined by blacks [...]. The history of modern traditions has been much more complex than we have supposed” (cited in Ray 2003b: 3f).

Due to the many uncertainties regarding the origins of traditions, it may not be useful to only limit the legitimacy of traditional leadership when it has pre-colonial roots. “Traditional” by definition means that a form of leadership has its roots some place in the past. Acknowledging that many rules and habits have changed over time during the colonial and post-colonial time, there should be room for a broader understanding of traditional leadership as legitimate leadership.

Beyond basic historic references, other criteria need to be considered as well, and useful questions to ask would be: Do many people accept traditional leadership as legitimate? Is the leadership accountable and responsive to local demands and needs?

3 Traditional authorities and good local governance

3.1 Local governance defined

One of the main reasons to incorporate traditional structures is to improve local governance, especially in countries where attempts of decentralisation in building strong structures have failed at the local level. Another strong reason is that many policies have not been implemented because traditional structures were excluded, or because they resisted certain policies.

In order to compare the governance of traditional authorities and state governments, we will define governance and some governance principles in relation to traditional authorities. This discussion will be conducted from a western perspective, but it will be important for future research to analyse how people living in traditional structures conceive governance.

Governance is a concept used when discussing the achievement of various development goals such as poverty reduction, improvement of health and education services, or natural resource management (Human Development Report 2002). Development efforts have failed when resources were not used in an efficient and responsive manner. But what is “governance,” and what is governance at the local level?

While government usually refers to state structures and institutions, governance is a broader concept and goes beyond institutional political structures. There is no precise definition of governance, which can be defined in several ways. For local governance, which refers to governance at the local level, UNDP defines it as follows:

“Local governance comprises of a set of institutions, mechanisms and processes through which citizens and their groups can articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level. It requires partnership between local governmental institutions, civil society organizations and private sector for participatory, transparent, accountable and equitable service delivery and local development. It necessitates empowering local governments with authority and resources and building their capacity to function as participatory institutions that are responsive and accountable to the concerns and needs of all citizens. At the same time, it is concerned with strengthening of grass roots democracy and empowering citizens, communities and their organizations such as CBOs and NGOs to participate as equal partners in local governance and local development process.”²

Common to all definitions of governance is that it is about how power is exercised, and how important decisions in a society are made. It refers not only to institutions, but also to the performance of these institutions. The definitions also emphasize the importance of not only state actors, but also various civil society actors in governance at the local level. Good governance can then be defined as follows:

² <http://www.undp.org/governance/local.htm>

“Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources. Governance has three legs: economic, political and administrative. Economic governance includes decision-making processes that affect a country's economic activities and its relationships with other economies. It clearly has major implications for equity, poverty and quality of life. Political governance is the process of decision-making to formulate policy. Administrative governance is the system of policy implementation. Encompassing all three, good governance defines the processes and structures that guide political and socio-economic relationships”³.

This definition does not specify the type of leadership needed for good governance at the local level. It follows then that it does not need to be limited to democratically elected rulers, but can also refer to other forms of leadership such as traditional authorities. But regardless of the type of leadership, several things must be in place for local governance to be “good.”

- Legitimacy: People who are governed must accept the decisions of the authorities as legitimate
- There must be social inclusion, empowerment, equal voice, and participation (regardless of gender, youth, social class, ethnicity or religion).
- Basic human rights need to be respected, as well as the rule of law and the division of power.
- Local governance must be responsive and transparent. The rulers are to be accountable, which means that it should be possible to penalize inadequate behaviour.

The next section will discuss traditional authorities in respect to these criteria and compare them with modern state structures.

3.2 Principles of good governance and traditional authorities

This section discusses traditional authority in relation to various criteria of good (local) governance, and compares this with the governance of modern political institutions. In this discussion, two considerations must be taken into account. The first consideration is a theoretical comparison between traditional authority and an ideal, democratic local government. But as this ideal rarely exists in practice, the second consideration is that traditional rule has to also be compared with local governance as it exists in reality.

Legitimacy

Legitimacy is based upon the extent to which citizens accept and follow the decisions made by political authorities. Citizens will accept authority when they see the political au-

³ <http://magnet.undp.org/policy/chapter1.htm>

thorities and their decisions as legitimate. Legitimacy is therefore an important mechanism that links people with authority. Force can be used to ensure compliance with laws if necessary, but the use of force has to be based on the rule of law to be considered legitimate.

In democratic states the legitimacy of the leaders are derived from electoral processes, the rule of law, and constitutional and legal systems that structure decision-making processes. Citizens elect leaders on a regular basis, who can be voted out if they do not adequately satisfy the citizenry. Constitutions and laws build the environment of decision-making. Democracy is accepted because of the equal participation of the citizens.

Legitimacy is to a large extent based on what citizens believe is legitimate and what they accept. Though citizens do not have to accept each decision from the authorities, they are to accept the authorities as legitimate decision-makers. This is an important distinction to note because it does not matter what citizens think about each issue as much as whether or not they view the institutions and/or political authorities as legitimate. If people do not accept the decision-making process as legitimate, they will not accept a decision that does not correspond with their own preferences. The consequence of this will be that they will act on their own behalf, irrespective of the decision of the authorities. If a large number of citizens disobey the authorities, the result will be uprisings, revolts, or at the individual level, unlawful behaviour. It is important that people view the decision-making process as legitimate, because the authorities have limited abilities to control non-compliance. If citizens accept the mode of decision-making, they will likely accept the decisions they do not agree with as well.

The element of belief is therefore important. Since most people will not understand or reason about different sources of legitimacy, they will believe that legitimacy can be given or withheld. As there are many sources of belief, there are also many sources of legitimacy (Ray 1997).

In traditional societies leadership is usually inherited. The source of legitimacy for traditional authorities is historic, and often dates back to the pre-colonial period. They are usually not only regarded as political leaders but also spiritual leaders of a society, or as the “fathers” and “mothers” of a society. Traditional leaders/chiefs can claim special legitimacy in the eyes of their people because these institutions can be seen to embody their people’s history, culture, laws and values, religion, and even remnants of pre-colonial sovereignty (Ray 2003b: 5).

The colonial and post-colonial phases have influenced these traditional forms of legitimacy in different ways. During the colonial period, the legitimacy of traditional leaders was strengthened. Though the colonial rulers based the legitimacy of their rule on their own rights, culture, and use of a constitutional and legal order rooted in imperial power, they at times used traditional leaders as their local representatives. In these instances, the traditional leaders were given the recognition and legitimacy of the colonizers as well as of their own societies (Ray 2003b: 5).

Different types of authorities can co-exist and be recognised and respected at the same time, albeit for different reasons. While people might accept local government authority for some governmental decisions (e.g. local development, infrastructure etc.), they will refer to traditional authorities for other things affecting their lives (e.g. settling of land disputes, religious or social matters). This does not need to lead to conflict between the two forms of authority, as long as they accept the legitimacy of the other. Because the legitimacy of leaders is linked to their performance, their support will depend on the level of their performance. This is especially true for elected officials, but also likely for traditional leaders.

Traditional authorities often have greater mobilization capacity than the state. Even when formal recognition by the state is lacking, the state has to consult and convince the traditional authorities in order to reach and/or mobilize the people, which is one of the reasons why political leaders in many countries have started to recognise and work with traditional leaders.

Many governments have recognised the importance of traditional leaders in supporting state policies and mobilizing the people in favour of change. In many cases it is very difficult or impossible to implement policies without the support of traditional leaders, especially in areas that touch upon the traditional customs of a community. The mobilizing capacity of traditional leaders is often needed in implementing policies in the social, economic or political structure of a community, for example in initiatives to fight AIDS, implement vaccination programs, and implement land reforms and road maintenance, etc.

Formal recognition of traditional leaders by the state is likely to transform their legitimacy. But as their legitimacy is derived independently from state structures, the possible negative impacts of formal recognition and institutionalised roles are that they may lose their independence and risk being identified with state failures. There is, moreover, a risk in their becoming involved in state politics, because parties and party leaders may use traditional leaders as a source of mobilization. "If traditional leaders are perceived as non-partisan, they can play a valuable role in local communities, e.g. in the sphere of conflict resolution and justice. But if chiefs remain independent of government patronage, they can easily be manipulated by the government of the day. The central issue remains unsolved: do chiefs derive their legitimacy from state recognition or from popular support?"(van Kessel and Oomen 1999: 177).

Social inclusion

An important criterion for good governance is that it should be inclusive and political decisions should be representative of the majority. Inclusiveness means that access must be equal for all and that the social and educational disadvantages of certain groups within society should be taken into account.

Traditional authority is often not socially or gender inclusive. Usually titles and functions of traditional leaders are by inheritance passed on to male successors in almost all traditional

societies. As a consequence women are usually excluded from traditional rule. This has been heavily criticised and has influenced the debates about the role of traditional leadership in places like South Africa, where the women's movement has a large impact on the African National Congress (ANC) government's gender policies. It states, "Chiefs are not elected but hereditary. Second, chiefs are mostly men, which goes against the principles of non-sexism. Third, only Black Africans can become chiefs, which goes against the grain of having a non-racial society. Fourth, the chieftaincy serves to accentuate the forces of ethnicity, which had become thoroughly discredited in the apartheid years when it was used as the organising principle in the divide and rule strategy of the ethnic homelands [...]. In the popular mind, chieftaincy was equated with tribalism which could divide the African majority and derail the process of democratisation and nation building." (van Kessel and Oomen 1999: 165). This statement is representative of the major criticisms against traditional leadership. To summarize:

- Through inheritance the position of the leader is not subject to a democratic selection process. Leadership selection is based on customary law.
- Access by women to traditional leadership is limited because they usually cannot inherit titles. Sometimes access is guaranteed through the wives of the rulers (e.g. queen mothers) who have formal roles in some cases. But this does not replace the formal power that is dominated by men. As in any other tradition, inheritance rules are transformable and can be changed in such a way so that women can inherit titles. Several countries have chosen to do so in the past.
- Youth have limited access to traditional leadership. This can be a source of conflict not only because of exclusion, but also because the younger generation tends to be more open towards change and modern structures.
- Leadership is often reserved within members of one ethnic or tribal group and excludes members of other groups. Clear boundaries of understanding as to which persons are under what authority is important. It is easy to determine the subjects of possible traditional authority in communities with a common ethnic background living in a limited geographical area. But geographical borders will no longer correspond to ethnic communities if migration has taken place. In these cases, there needs to be a clear understanding for what persons traditional rule matters: Is it for the members of one group only, or for all the people living in one area? Restricting power to one group and excluding other members not of this group can lead to conflict (e.g. Beke 1999 for Zaire/Congo). It increases the risk of ethnic division and conflict.

In modern democratic states, inclusiveness is guaranteed in theory through universal suffrage, where both the adult male and female population has the right to vote and stand for office. This makes governance the interest of all people. In reality, the direct link between the people and government at the local level is often absent, particularly where there are no local

elections and the central or provincial government appoints representatives. In such cases, local representatives are directly responsible to the higher levels of government and only indirectly to the local population. Representation and inclusiveness in decision-making at the local level is therefore not guaranteed at the local level through state structures.

When discussing social inclusion one has to compare traditional leadership with social realities. Leadership is male-dominated in many countries and regions at all levels, and women are formally excluded from traditional leadership. There is also a strong social bias in political participation and within the political elites in favour of the wealthy, educated, and persons of higher socio-economic status. In places where ethnicity is a salient cleavage in a society and leaders are supported along ethnic lines, it does not matter as much whether leaders are elected or whether they inherit their position.

Due to the failure of state structures with respect to inclusion, various other participatory methods have been used to enhance the representativeness in planning and decision-making.⁴ In development projects, methods of participatory planning and decision-making that include a larger number of groups in a society have been introduced. The first step involved is identifying all possible stakeholders. The stakeholders can be the local government, traditional leaders, or any other group in society such as business associations, women's organisations etc. In such processes traditional authorities are only one of several stakeholders.

Respect for human rights, the rule of law, and the division of power

Most countries have modern legal systems on the national level, and have in principle ratified international law declarations such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.⁵ But traditional societies often have rules and norms that do not necessarily correspond with modern sources of national and international law. The division of power with an independent judiciary, a core element of modern democracies, does not usually exist in traditional societies where the traditional leader is responsible both for dispute settlement and the making of rules. These rules are typically not codified but nevertheless determine community life.

Currently the right to self-determination for traditional societies is hardly ever disputed, and there is a general acceptance that indigenous and traditional societies must be protected. Nevertheless, the co-existence of different sources of law can cause legal conflicts. This is because when a government accepts indigenous sources of law, different and potentially conflicting laws can apply within the same area of jurisprudence. The areas of expertise that explore these questions are within the domain of legal anthropology or legal pluralism. Since this is not a legal or anthropological paper, we can only give a short overview of the problem and suggest possible solutions.

⁴ see e.g. "The World Bank Participation Sourcebook" <http://www.worldbank.org/wbi/sourcebook/sbhome.htm>.

The key question is what laws have precedence in the case of legal conflicts. For instance, there are controversies surrounding the concept of human rights. The concept of human rights was developed from specific political contexts within the Western world, and are often criticised as a Western imperialist mechanism. But at the same time, the non-recognition of human rights is often used to justify oppressive regimes. So in order to be accepted within a multicultural world, and to fulfil its own purposes, the implementation of human rights must evolve in a dynamic way.⁶ However there are traditional practices, rules and norms that clearly contradict core elements of the human rights declaration. In such cases, there will need to be a judgment on what matters more: the right to self-determination of traditional communities, or the respect for human rights.

There is no universal criterion as to which law has precedence. Whether certain violations of human rights are problematic is a matter of philosophical and political debate. It is not legally possible to judge which elements of international law and human rights are “truly” universal, and which elements are less important and come second to the right to self-determination of traditional communities. For example, some traditional norms are medically harmful for women such female genital mutilation/cutting. In some recently highlighted traditional societies in Africa, the higher importance of protecting women vis-à-vis the traditional values and norms will be clear to most people of Western background. But in other cases where the traditional system of conflict resolution does not correspond to international standards of penal law, it might be less clear as to what source of law to abide by.

Contradictions do not only exist between international law and traditional law, of course. National law may also conflict with traditional practices. This raises a number of very practical issues and questions, such as:

- Is traditional leadership recognized as a legitimate source of law for traditional communities by the modern state? In Latin American and African countries, the constitution respects the practice of customary law. This is a necessary first condition.
- In what cases do traditional law apply and in what cases not? It would be common to accept the traditional rules of land tenure and distribution, but nevertheless insist on the respect of basic human rights.
- To whom does traditional law apply? If a traditional community is geographically isolated, it is easy to define which persons are within the jurisdiction of traditional law. But due to migration, many traditional societies are no longer isolated. Does traditional law then apply to all people living in a certain area, or only to the ones belonging to the traditional community? And what law should the members of the traditional community who have migrated out live under?

⁵ see the UNHCR website for a discussion in this. http://www.unhcr.ch/html/menu3/b/a_cescr.htm

⁶ see for a short description: http://www.univie.ac.at/recht-religion/ra_konzept_en.htm

- Can people choose which law they want to abide by, or are there clear rules as to which laws apply to a given situation? Many traditional societies are culturally alienated from their traditions and partly integrated in modern structures. In these cases it becomes a question of which persons the traditional law applies to, or whether every member of a society can choose which system to abide by.

These issues and problems are summarized by Van Cott (2000), who argues that the success of legal pluralism, or the co-existence of different sources of law “is determined by the outcome of repeated strategic interactions among indigenous peoples organisations, the professional judiciary, and state institutions. These interactions are affected by (a) the capacity of the political system, the legal tradition, and society to tolerate normative diversity; (b) the geographic isolation and cultural alienation of indigenous communities; (c) the degree of internal divisions within indigenous communities, movements on legal pluralism, in general, and in specific cases that have arisen; and (d) the availability of effective legal mechanisms to indigenous communities seeking to protect legal rights”. (p. 209).

Responsiveness, accountability and transparency

Responsiveness, accountability and transparency are core elements of good governance. Responsiveness means that all forms of authority should act in the interests of the people considering their priorities and needs. Individuals will have different preferences regarding different policies. If the authorities make these decisions on behalf of the people, the decision should respect the will of those people.

Accountability is the idea that poor performance of decision makers can be sanctioned against. This requires that there be mechanisms in place to penalize poor performance. A necessary condition to keep authorities accountable is to require sufficient transparency. People must be enabled to have access to information because if there is no transparency, there will also be no accountability.

Brinkerhoff (2001) makes a distinction between different types of accountability. The main distinction he draws is between accountability within government and outside accountability, which have different sanction capacities (p. 5).

- Accountability within government institutions: This includes courts, parliaments and legislative committees, higher levels of government for local government authorities that are appointed, anti-corruption agencies, etc.
- Accountability outside government: The main external sanction capacities are elections. The media can also play an important role in indirectly sanctioning authorities.

Accountability, responsiveness and transparency are not restricted to elected governments. The basic concept of a democracy with elected representatives is that elections guarantee responsiveness and accountability by the authorities. In elections, leaders present different

responsiveness and accountability by the authorities. In elections, leaders present different policy options and programs, and people vote for them based on their preferences. Elections allow people to vote out leaders whose previous performance was weak. The openness of the political decision making process provides the transparency that enables people to make their election choices.

Though traditional authorities are usually not elected, it does not mean that they are not responsive, accountable or lack transparency. Accountability for traditional leaders is limited because their position is inherited usually for life, so the possibilities of sanctions are restricted. Nevertheless, the power of traditional leaders depends on public support. In some cases, due to their unclear political and legal status, the power of traditional leaders might depend even more on public support than those of local governments. There are also other mechanisms that can hold traditional leaders accountable. It is the case that in some countries the traditional leaders are strongly dependent on the central government, which oversees their activities and sometimes approves new leaders.

It is hard to determine in general if traditional leaders are responsive to local demands. In some areas they are responsive to local needs due to their role in society. But because of their functional limitations in many cases, their responsiveness is not as important as it is for local governments. Responsiveness and accountability of traditional authorities becomes more important if traditional authorities become more involved in local governance. If and when their functions change, it becomes more important to introduce mechanisms of accountability and to ensure that traditional leaders are responsive to local needs. Whether transparency exists depends on how traditional leaders exercise power, and on the habits of a particular society. In theory, traditional leaders are less transparent than modern ones because the justification of their decisions is not institutionalised.

It would be all too easy to say that traditional authorities are not as responsive or accountable to local needs as the local governments. So traditional leaders need to be compared to local governments as they stand in reality. We know that the presence of the state in many developing countries is almost absent particularly in rural areas. In such cases the government is not responsive to local needs. Furthermore, in many countries local elections are not taking place separately and local authorities are appointed from higher levels of government.

In these cases, the higher level authorities have to ensure accountability by monitoring the activities of the local authorities. Such mechanisms can be introduced when more functions are formally handed over to traditional authorities. In fact in many African countries where the role of traditional leaders are acknowledged, they already have mechanisms in monitoring and reporting between traditional authorities and the state.

Elections are also not the only mechanism to ensure responsiveness of local elites to local needs. In small communities, traditional leaders are already well aware of the needs of the local population. Other forms of participatory preference aggregation or participatory planning,

widely used by development agencies, can be adapted and introduced at the local level for both traditional structures and local governments.

Conflict resolution and state building

Traditional authorities contribute to conflict resolution in two important ways. At the local level traditional authorities are often regulating conflicts and settling disputes among individuals. Many countries have recognised customary law and forms of legal pluralism, though it is difficult in practice to have competing systems of law simultaneously.

In societies undergoing political transition or are in a post-conflict situation, one of the key questions is what traditional leaders can or should contribute to conflict resolution and state building. Whether they contribute or hinder conflict resolution and state building is not easy to determine. There are possibilities for conflicts along several lines:

- *Traditional power versus government power.* Due to the different sources of legitimacy, the government and traditional leaders can view each other as a threat. It is not surprising to see that many states did not recognise the traditional authorities (who often served as local governments during the colonial period) after independence, and aimed to build independent state structures at all levels of government. This challenged the position of traditional leaders in many societies, and there still remain numerous conflicts about power and influence between traditional authorities and governments.
- *Traditional leaders versus other traditional leaders or against people of other traditional communities/tribes.* One of the major concerns over traditional authorities is that their recognition can lead to an ethnisation of politics, which is a problem in many societies undergoing transition. In many developing countries, the nation-state borders do not follow communal/ethnic boundaries, so some groups will always find themselves in a minority position. The competition for power in such cases will not be equitable if power is executed along ethnic lines, because the majority/minority divide is very clear and the minority groups will always feel at a disadvantage. In addition, the power of traditional leaders often excludes members of a different community, so members of other communities living in the same area will feel marginalized, which can then lead to conflict (Beke 1999).

Many western interventions have largely ignored the existence of social and political structures, and the Western-style paradigm of governance has focused exclusively on holding elections and forming national executives, parliaments and judiciaries (Chopra and Hohe 2004). The building of institutions is important not only for conflict resolution but also for the long term functioning of a society. But Western-style democratic elections look arbitrary to many people living in traditional structures. Why should people and existing authorities suddenly

accept a system that has been introduced with external pressure, when for a long time they have lived in the absence of an influential state apparatus and according to their own structures?

From this perspective, and considering the various failures of governance in conflict or post-conflict societies, it becomes clear that any state structures have to take into account existing social and political structures. “Communities have to be integrated in the process of institution-building, where they live as well as at the higher levels, in order to foster a sense of identification with the greater whole and a feeling of ownership of the alternative structure” (Chopra and Hohe 2004: 6). This is often the case because new state structures are often very fragile, lack experience or resources, and have a high risk of collapse.

When traditional leaders are more legitimate than the government, it is an illusion to think that it is possible to build a functioning state without close cooperation of the traditional leaders. In these cases, the inclusion of traditional structures is not a risk, but rather a decisive factor for successful local governance and development.

4 The relations between traditional structures and local governance

4.1 Traditional structures and local governance: Prospects and question marks

The increasing focus on traditional authorities is linked to an increasing interest in and support for decentralisation. Modern institutions and the modern urban elite at the national level often co-exist with traditional structures at the local level. Traditional structures in many cases survived the colonial period and continued to be an important part, or even the main reference point for large parts of the population after independence. Recent efforts of decentralisation have shifted the focus to existing social and political structures at the local level. Without taking traditional structures into account, social and political engineering are likely to fail at the local level.

Traditional authority is a legitimate source of authority, because legitimacy is what people believe. Where in western states legitimacy is closely linked to democracy, in many other countries (especially at the local level in rural areas) democracy is a rather foreign concept and the legitimacy of traditional leadership is greater than the legitimacy of modern state structures. Chiefs and traditional authorities are a social reality, and development efforts at the local level have to recognise these existing structures.

One of the best ways to describe states in many developing countries is that of constitutional and legal pluralism. While most of these states have a modern constitution with elected representatives, they also have traditional structures that determine and influence people's everyday lives. Though most people would consider the two spheres separate, we can assume that the people dealing with different authorities take into account different structures without viewing them independently of the other. The dualism is more the external view, and not so much the view of the local people.

In order to introduce some form of integration or co-operation, different steps need to be considered.

- First, governments need to accept traditional communities and traditional authorities as the legitimate authority for some parts of the population. This has been a very important factor in many countries in the struggle for indigenous rights. In Latin America, the recognition of indigenous cultural and political rights has been a major step for the protection of indigenous peoples, and it has been the first step for further possible inclusion of traditional structures in local governance.
- A legal framework that regulates the separation and interaction of the traditional and modern sphere is needed. Some countries in Latin America or Africa have sys-

tems of legal pluralism that work comparatively well. But from a legal perspective there are many difficulties. Customary law is often not codified, and systems of customary law differ greatly within a country because different traditional societies have different legal systems. Customary law may also not be compatible with basic principles of modern law. Though it is accepted that legal pluralism is possible, it has been difficult to codify traditional law and find legal arrangements that allow for a compatible co-existence of traditional and modern law. Clarification is necessary on when and to whom traditional law applies and what the possibilities of appeal are. To achieve a functioning system of legal pluralism is not possible without legal pragmatism. In many countries there is a “muddling through” approach on the integration of customary law, rather than a clear and practical structure. Currently, courts have to decide case by case what law applies in a given situation.

- At some point there has to be some kind of institutional arrangement between modern states and traditional authorities. Different arrangements will be discussed later in this section.

The most important issue in the relation between governments and traditional authorities relates to power. Shifting functions and/or resources and recognizing new leadership always means that power and influence has to be transferred. Central governments might see traditional authorities as an undermining force to their own power, and do not have sufficient incentives to further include traditional power.

Institutional reform only happens under certain conditions. One possibility is that a leader or a majority government is committed to the idea itself, and therefore changes or introduces new political institutions. Another important and common possibility is that a government supports an institutional reform for strategic reasons. International actors could be favorable towards stronger recognition of traditional authorities and therefore support corresponding institutional reforms. It is likely that in some countries decentralization has taken place under considerable pressure from the international community. Domestically, governing leaders or governments are willing to hand over power if they believe that this would help mobilise some segment of the population for their own interest. Since traditional leaders can have strong links to the local population, handing over more power can help introduce various policies, which would then indirectly mobilize the local population in favour of a government.

BOX. Mozambique is an example for a political mechanism that shows how traditional authorities were included in institutional reform. For a long time, the governing Frelimo party did not recognize the traditional authorities. But the largest opposition party, Renamohad, supported the formal inclusion of traditional authorities. When the Opposition party became stronger, the ruling Frelimo party realized that the support of traditional leaders could be an important factor. This created an opportunity for some form of formal inclusion of traditional authorities at the local level, where they participate at the meetings of the local council.

The inclusion of traditional structures in local governance in one form or the other offers a number of opportunities:

- *Non-western approach for governance:* recognizing forms of authority other than from western-style democratic structures offers an opportunity to better adapt political structures to the socio-economic needs of local communities. Development can build on existing structures and different countries can find their own model of development and social and political engineering at the local level.
- *Better inclusion of the local population:* If traditional authorities represent the people more adequately than any other form of authority and organization, the recognition of traditional authority will lead to more inclusiveness.
- *Acceptance of policy implementation:* In many areas it is impossible or very difficult to implement policies without the support of traditional authorities, because people follow the decisions of their traditional leaders rather than the government. Even without formal institutional arrangements, local governments typically have to rely on the informal support of traditional leaders.
- *Potential for better responsiveness to local needs:* As the authority for economic and social matters, traditional authorities are likely to be better informed about the needs of the local population.
- *Traditional authorities as advocates for peace building* (e.g. in Sudan or Angola): The inclusion and recognition of traditional authorities by states can in return guarantee their support for the state. The risk is that strengthening traditional authority might lead to stronger ethnic divisions and increased conflicts.

The inclusion of traditional authorities also raises a number of issues, some of which have been mentioned above:

- *How does one distinguish between chiefs that are authentic traditional leaders rather than creations of colonial regimes?* In the absence of historic records it will be difficult to determine what tradition is rooted in pre-colonial times and what has been imposed afterwards. Traditional leaders need to be legitimate in the eyes of a

large majority of the local population. However it is also not easy to determine popular opinion at the local level. Directly asking the chiefs of their legitimacy will likely produce a biased answer. If chiefs are to be institutionalized and integrated into formal structures, there needs to be a clear definition of traditional leadership.

- *Dealing with migration:* The subjects of traditional authority are clear when a traditional community lives within a defined territory that does not overlap with other communities. But due to migration, it is not a clear-cut issue in many areas of the world. It calls for rules clearly defining where and to whom the power of traditional authorities applies to or not.
- *Dealing with the co-existence of tradition and modernity:* A similar problem is linked to the parallel existence of tradition and modernity. Every country with a traditional structure has a segment that lives according to modern values and norms. These different systems can interfere and will more likely do so with increased urbanization. This will lead to having to judge between what system is superior when there is a conflict between core elements of human rights and the rights of cultural self-determination.
- *Accountability mechanisms:* If substantial new functions are formally transferred from the state to the traditional authorities, adequate accountability mechanisms must be guaranteed. This can be achieved by oversight through higher levels of government over the activities of traditional authorities, and establishing participatory approaches actively involving the respective communities.

4.2 Institutions of traditional authorities and local governance

There are different models of institutional co-operation. Whether and how traditional authorities are included in local governance depends on various elements. Traditional structures are not equally important in all regions of the developing world. The incentive for governments to share power with traditional authorities at the local level is rather low if they are weak or in a minority position.

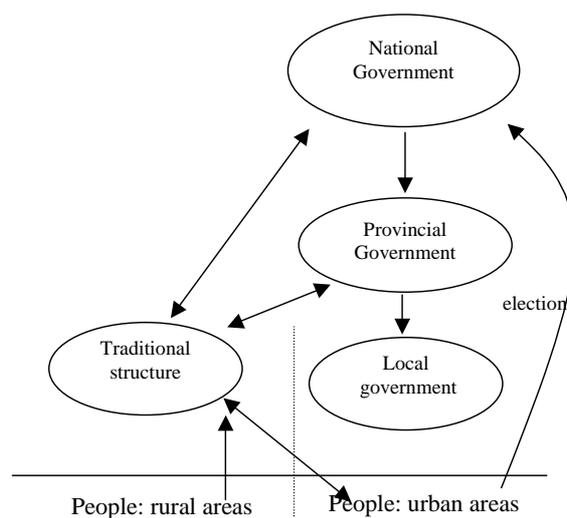
The credibility of traditional authorities depends on their role during the colonial area. When traditional authorities have been an integrated part of the colonial administration, it has undermined their legitimacy in the post-colonial period. This is one of the reasons many of the governments in the years after independence did not support the inclusion of traditional authorities.

Currently in many countries the state apparatus still does not recognize traditional authorities at the local level, and is either ignorant of or in conflict with traditional authorities. Traditional norms, values and institutions nevertheless exist within the state, and their importance depends on the presence of the state at the local level, especially in rural areas.

In countries where traditional societies constituted a minority, it was common to attempt to eliminate or to oppressively integrate them into the modern structures. In the US, Europe, New Zealand and Australia, the modern states tried to repress or neglect the indigenous cultures because they viewed them as antiquated and backward, and believed their integration would be a step towards modernization. The integration was often harmful for the traditional structures and failed in most cases. Indigenous organisations have fought for their cultural and political rights, and more recently most countries have given legal protection of indigenous cultures. However many inequalities and disadvantages have not yet disappeared.

In most countries in Latin America, North America and Northern Europe, where traditional structures constitute minorities, indigenous minorities are protected and have gained respect over their rights to self-determination. Legal arrangements allow traditional self-governance and legal pluralism in some areas, which usually include traditional court systems and legal conflict settlement (e.g. for a description about Bolivia and Columbia, see Van Cott 2000). This co-existence is possible despite the fact that social integration of indigenous cultures is still fairly limited.

There are different models of co-operation that are possible. In the first model, the traditional power is the local government in the rural areas where society is still very traditional, and there are some formal or informal links between the traditional local government and the modern government at the national and/or local level. The national government might have the right of administering the traditional leadership. The urban areas with modern structures will have a modern local government.

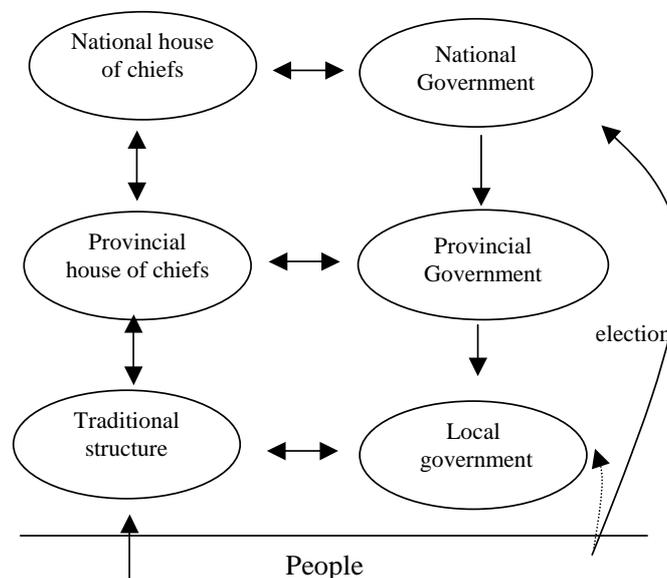


This is a common model though often not formalized.

BOX. Macpherson (1997) uses this model of local government from Western Samoa. In 1999, the “Village Fono act” in Western Samoa allowed village fonos (parliaments), which are headed by the paramount chief, to “exercise power or authority in accordance with the costumes and usage of that village.” In many of the colonial states the traditional structures and chiefs were the local government. This 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 on the whole to the core value of universally-elected governments (Ray 2003a: 114ff.)” However, this model is still viable in rural areas where traditional societies are intact and traditional leaders have a high level of legitimacy among the people.

The second Model: Separate structures with various inter-actions at the local and national level

Some countries have established a parallel structure at different levels of government. A house of chiefs at the national and local level exercise certain rights and has an advisory function at the national and/or local level and/or needs to be consulted for different issues.



BOX. In Botswana this is the common form of integration (Sharma 2003). There is a house of chiefs without significant power, but there is recognition of the chieftaincy. The President was given the authority for the recognition, appointment, deposition, and suspension of chiefs. The chief arranges tribal ceremonies, assists in checking crime, promotes the welfare of the tribe, and presides over meetings. The law nevertheless requires that every chief implement the instructions given to him by the minister. The chiefs are paid salaries, and the state has complete supremacy over the traditional leaders.

In Ghana, the traditional leadership on a national and regional level has an advisory role in development issues. But they are forbidden from participating in politics outside their limited role. At the national level they are a mainly advisory body on matters affecting the chieftaincy. They were supposed to develop and codify a system of customary law, but this has not yet happened (Ray 2003a).

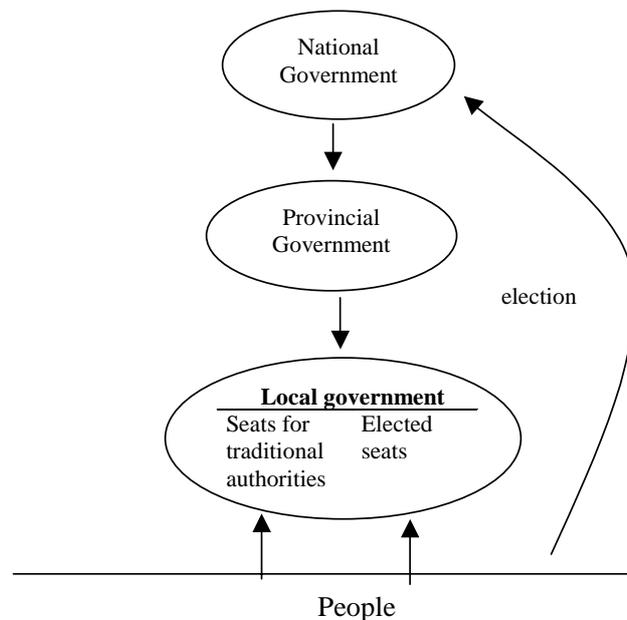
Other examples include Micronesia (Pinsker 1997: 155ff), where there is a “council of Pilung and Tamol” as a fourth branch of state government in the state of Yap. The French colonies in Africa also had a dual structure at the local level, where the chiefs were responsible for traditional functions and the modern administration with the central government and modern functions.

The dual structure has the advantage that traditional structures are fully recognised and given a clear role at all levels of government. Such institutions needed to be created as they did not exist before, but within the dual structure the role of traditional authorities has been clearly limited and politically defined. This carries the risk that their role will be reduced to helping legitimise the state policies without being given real and independent power. For the state however, there is a clear advantage in using the mobilizing potential of traditional authorities by giving them a function within the government.

The parallel structures need a clear functional separation of the two spheres, which might not always be possible. There are cases where a clear separation of the two spheres has been used to undermine the authority and influence of traditional leaders. This has been the case where in exchange of their recognition, the chiefs had to accept the supremacy of the government. Even when there are parallel structures, the traditional structures depend financially and administratively on the state. The state defines what the traditional structures can decide, and this has been used to take substantial power away from traditional authorities and limit them to only folkloristic functions.

Formal power of traditional authorities at the local level

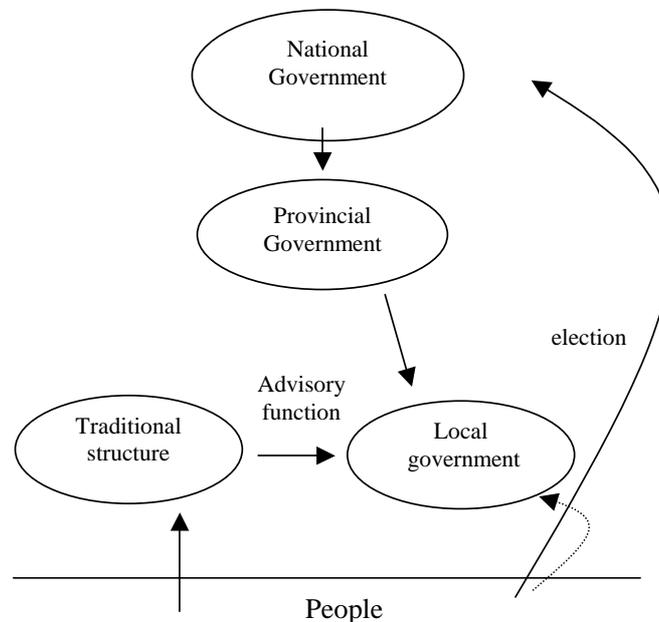
In this model, the chiefs have a clear function in local government as part of one or more of the local government bodies. This can be done through reserved seats or through allowing (or encouraging) traditional leaders to run for certain local offices.



The advantage of this model as compared with the dual structure model is that it fully integrates traditional leaders within modern local governance structures. Their power and recognition in this case is not only symbolic. The disadvantage lies in the fact that representatives with different origins and sources of legitimacy are governing within the same structure, which can then lead to conflict. But as noted before, their substantial integration can further increase the implementation capacity of the modern structures because traditional leaders have been part of the decision-making procedure, thereby lending their legitimacy to the policies in question.

Traditional leaders serving in advisory bodies of the local government

Some countries did not choose to grant traditional authorities a role in formal decision-making, but formed a special body or procedure to guarantee an advisory function or to consult with the traditional authority prior to a decision.



This can be a joint committee of local government and traditional leaders that focus on specific policies such as environment, health, social practices, gender, fund-raising for education, health and other development projects. Local governments could establish new participatory bodies of citizens that focus on traditional leaders, or expand existing ones to include traditional leaders.

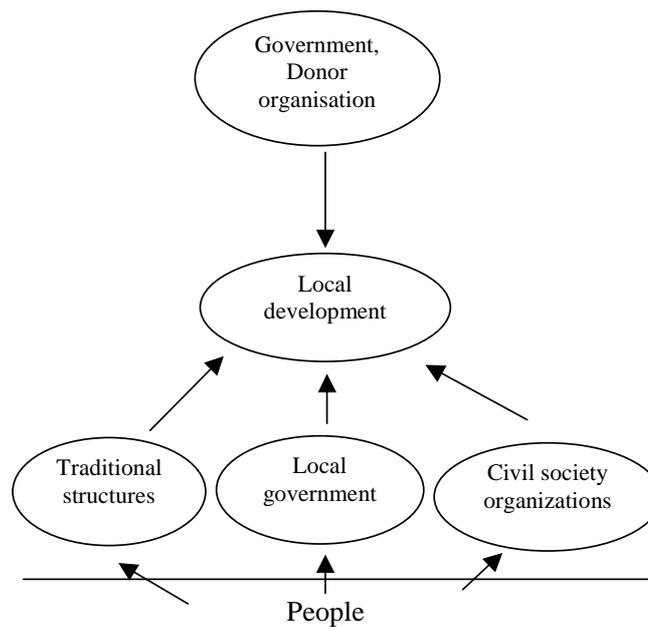
The disadvantage of this model is that traditional structures have no formal role in decision-making and therefore their participation is limited. This can lead to frustration and conflict if local governments ignore their advice. But in reality, many local governments are unlikely to decide upon an issue against the will of traditional authorities because they know they will need their support.

Traditional leaders can be involved informally in individual development programs

Traditional leaders could be involved informally in individual development programs, policies and projects organized by local government, communities, and non-governmental organizations. In the participatory planning phase, traditional leaders could then become one of the many other stakeholders at the local level. They could also organize development projects. Following the Community Driven Development (CDD) approach, control over development is often given to local community groups, where traditional leaders would be one among many other actors, such as elected or non-elected officials, local governments, agency

representatives, Community-Based Organizations and NGOs. One of the core elements of CDD is to strengthen local groups and facilitate information both from the national and local level, and among different groups within a community. The goal is not so much formal inclusion as the strengthening of links between community groups and governments to create a favourable environment for policy and institutional reform, including decentralisation.⁷

The main difference with this model from the others presented previously is that traditional leaders are not treated as superior to other interests and community groups, but as one of many possible actors.



Traditional structures can participate in any form of development as an independent actor, whether or not they are formally recognized or within the institutional framework..

⁷ See for <http://Inweb18.worldbank.org/ESSD/sdvext.nsf/09ByDocName/CommunityDrivenDevelopment> for more on this approach.

5 Discussion: The role for traditional structures in local development

From a development perspective, local governance should provide basic services and improve social and economic conditions for its citizens. One of the main goals of development is to reduce poverty and improve basic living conditions for the most disadvantaged segments of a society. The inclusion of traditional authorities in local governance should serve and reinforce these goals. The criteria to measure successful inclusion of traditional structures in local governance would be that it has become more effective, inclusive, and responsive towards all groups within society, especially to the most disadvantaged.

Traditional authorities, as discussed earlier, may be better able to deliver basic services because they are often more legitimate to govern in the eyes of the people than local state administrations. This would mean that the decisions made by traditional authorities will have a higher likelihood of success, and they may be in a better position to mobilize the financial and human resources needed for common goods or a development project. Nevertheless traditional authorities are not automatically more suitable for local governance than state authorities if they are not responsive to local needs. There will be a risk of more corruption and clientelistic governance if mechanisms of monitoring and accountability are not put in place or are not functioning well.

Most countries that officially recognize traditional authorities have a branch of the government that monitor the activities of traditional leaders. Often the ministry that deals with local matters or decentralisation is responsible for overseeing traditional authorities.

5.1 Functions of local governments

The inclusion of traditional authorities in new local governance functions is only possible with functioning traditional structures and traditional leadership. At the same time mechanisms to guarantee responsiveness and accountability have to be in place. If strong traditional structures do not exist, establishing or re-establishing traditional authorities is an experiment in social engineering that can hardly be justified from a democratic point of view. If mechanisms of accountability and responsiveness cannot be introduced, the risk of corruption and abuse of power by traditional authorities is too high to justify an extension of the role of these authorities through state institutions.

This section sets out different functions of local governance and discusses these functions in relation to traditional authorities. The functions of local governance can be categorized in several ways. One of the distinctions is between regulative, distributive/redistributive, and administrative policies, which is mapped out in the table below. We will then discuss the possible role of traditional authorities in various functions of local governance.

Table 3: Local policies and the possible role of traditional authorities

Policy area	Policies	Role for traditional authorities
Regulative policies	<ul style="list-style-type: none"> - Regulation of the social, economic and often religious structures and norms - Conflict and dispute settlement, policing - Local development and planning - Natural Resource management 	Traditional functions of traditional authorities. Possible conflict of interests regarding local development and resource management.
Allocative, distributive and re-distributive policies	<ul style="list-style-type: none"> - Allocation of communal land - Infrastructure (such as roads, bridges, electricity, water etc.) - Basic Services (Health, Education etc.) - Implementation of other national policies - Tax and revenue collection 	Role of traditional structures depends on complexity and special skills needed.
Administrative policies	<ul style="list-style-type: none"> - Administration of citizens, voter registration, issuance of birth and death certificates, land registration, etc. 	“Modern” specialized governmental skills needed. Not traditional domain of traditional authorities.

Many of the regulative functions are traditional functions of traditional authorities.

- *Structuring the social and religious life of the community* and maintaining the social order is one of the original tasks of traditional authorities.
- *Conflict settlement*. This is one of the main tasks of traditional leaders. The traditional forms of conflict resolution will have its limitations if the conflict is between the modern and traditional values.
- *Local development and planning*. Development and planning are relatively new tasks for the local government. Depending on the complexity of a society and the number of other organized groups such as interest organisations, community-based organizations etc. it will be important to include as many community organizations as possible. Traditional authorities may only be one among many other stakeholders in the decision-making and implementation process.
- *Natural resource management* (such as water and the use of land) is one of the long-standing functions of traditional authorities. More recently there is a demand for co-ordination in natural resource management between different communities. The rise in complexity of co-ordination and management requires that complex forms of decision-making and management be introduced. Traditional forms of decision-making need to be introduced if traditional authorities are to still play a role

in those functions. It is now often the case that one community can no longer exclusively deal with environmental problems, because the causes of these problems are not confined within that community.

Some allocative, distributive and redistributive policy areas are linked with traditional functions of local governments. Most traditional societies have always organized basic infrastructure, allocation of communal land or communal health in traditional health systems. But many of these functions have shifted to the ministries in the capitals, and need to be adapted to the local context and implemented at the local level.

- *Land allocation.* In many traditional communities, there is little or no individual land ownership. The allocation of communal lands to individuals and the rights and duties connected to land allocation are among the traditional functions of traditional authorities. Land and land reform is one of the critical issues in local development, and there have been many initiatives that have tried to reform land use towards individual titling. But individualizing land rights diminishes the power of traditional leaders over land, which is a crucial resource in rural areas where most people depend on subsistence farming. The selling of communal land is one of the main income-generating activities for traditional leaders, which they use both for the common good of the local population, as well as for their personal needs and benefits. Traditional authorities are therefore one of the major obstacles for land reform in developing countries.
- *Provision of basic infrastructure, such as water, roads, sanitation, waste disposal and sewage.* Every society has provided basic communal infrastructure and mechanisms of resource mobilisation, usually in the form of labour to build and maintain this infrastructure. Theoretically, traditional authorities can manage any form of infrastructure. The advantage for traditional authorities is that they often have the power to mobilize local resources to maintain public goods, whereas states are expected to mobilise resources from outside sources. But with a rise in the complexity and technicality of building infrastructure, there is a need for more specialised knowledge, as well as investments in financial systems and human capital.
- *Main services such as health and education.* Traditional medicine is in many cases as important, if not more than Western health provision for the local population. But modern provision of health services and education demands technical skills and financial resources of which traditional authorities cannot provide.
- *Allocation of financial resources, tax and revenue collection etc.* Currently various new tasks at the local level are in need of financing, and in certain countries the local government is collecting resources for the central government. This is not necessarily a new task for traditional authorities. Some traditional authorities have had a history of being part of the inter-governmental fiscal system, because they were

mobilizing local taxes and revenues on behalf of the colonial authority. Even today traditional authorities can be much more capable in mobilizing financial and human resources than the state. But when traditional authorities obtain or have a role in the inter-governmental fiscal transfer system, there will be a need to put in place systems to monitor corruption.

Administrative functions:

- *Administration of citizens.* When societal complexity increases, governments must increasingly provide administrative services to the citizens. Birth and death, marriage and divorce certificates, electoral registers, land plans, etc., constantly need to be updated, and they must issue passports, visas and other kinds of documents. This requires a modern infrastructure, as well as the human capital and financial resources to maintain the system.

Whether or not the traditional authorities are able to fulfil various functions of modern governments depends on the degree of complexity and new skills needed for this task. By degree of complexity, we are not referring to the social complexity of local communities, but rather to the complexity of the modern functions as compared to the traditional. Certain services, for example the provision of electricity, require technical skills or knowledge that traditional communities and authorities in general do not have. Capacity in these areas either has to be built, or outside experts need to be hired to execute these functions. This does not mean that traditional authorities are unable to control new functions in a comprehensive way. Capacity has to be built for the new functions, irrespective of whether local governments within the governmental system, or any other persons are involved in the execution of these functions. Including Traditional authorities in the new functions will more likely integrate traditional knowledge and practices in the provision of infrastructure and services.

The involvement of the traditional authorities in local functions depends also on the need for co-ordination and policy cohesion. All national governments want to co-ordinate certain policies nation-wide, which usually does not leave much space for local decision making. As mentioned before, natural resource management is often not possible to coordinate within small communities. But at same time, the implementation of national policies is often not possible without the involvement of traditional authorities. On some new policies, only traditional authorities have the possibility to persuade the local population about its benefits. It remains then that even for complex new policies, there is an interdependence between the national governments and the local authorities. Through the involvement of traditional authorities in policy making and implementation, it is quite probable that the continuity and sustainability of local policies is greater than if traditional authorities are left out of the decision making process.

Traditional authority has for long period of time regulated the lives of the people at the local level. Since the traditional societies in many cases were located in rural areas with family-

based subsistence economies, traditional leaders were engaged in practical problems related to agriculture and the management of natural resources. Most commonly they decided on the use of land, which was in many cases communally owned. Traditional authorities also regulated social activities, and often served the function of a judiciary to solve conflicts while also serving as a spiritual/religious leader.

In the wake of increasing modernisation, traditional authorities were required to regulate more complex political, social and economic issues. In Europe, traditional authorities were involved in various economic activities, and regulated the economic and financial system. But over time, traditional leadership was not capable of dealing with the growing economic and social complexity of a society, and was replaced with more inclusive and democratic forms of decision making. Currently only a few monarchies remain in Europe that have real executive power at the national level.

Traditional authorities can have a different role in providing these tasks. They can serve as the sole planning, decision-making, and implementing power at the local level, or be integrated into the existing local government, or serve a limited advisory function. Their role is likely to depend on various elements:

- If a society moves away from subsistence farming and towards modern ways of economic production, there is a need for further service-provision, regulations, and administration by the local government. If these functions become part of traditional authority, traditional authority itself becomes transformed because it acquires roles it did not have before.
- When there is large-scale integration of the society into an increasingly globalised world, the complexity and size of the functions will increase. The more a society is integrated in an industrialized production chain, the less the traditional authority will appear as an appropriate means of decision-making.
- The role of traditional authorities will depend on different functions. Regulating functions have always been a major task of traditional authorities, while some distributive and redistributive functions will fall in the domain of modern functions. The question of responsiveness and accountability towards the local population will be more important depending on the amount of resources involved.
- Overall, the more a society is based on traditional and subsistence production, the more this society can be expected to conform to traditional rule. The more complex and industrialized a society is, the less legitimacy and recognition traditional authority will obtain.

5.2 Under what circumstances are traditional authorities to be included?

There is no single model for inclusion of traditional and modern structures. Any attempt to integrate traditional authorities needs careful examination of the socio-political structure at the local level. “What is the system of ideas and values that constitute the local world-view, that influence how people are acting, and how they will perceive an outside intervention?” (Chopra and Hohe 2004: 13). There are two sides that need to be examined, local state structures and traditional authority. It will then be useful to consider these following questions:

- What is the structure of the local government, what are their resources, and how is their performance? What is their level of accountability, responsiveness and transparency? What is the level of decentralization of the state, and what are the main functions of the local government? To what extent is it independent of the state?
- What is the nature, history, and legitimacy of traditional structures, and how is their performance? Is traditional authority rooted in the pre-colonial history, and what are the more recent influences and transformations? What are the current functions of traditional authorities?

Answering these questions will require anthropologists and regional experts in international interventions. Chopra and Hohe (2004: 10f) describe an attempt to establish new forms of local government in East Timor, where village chiefs were not allowed to contend for local council elections despite the fact that they possessed important ritual rights. This created a problem because if persons not acceptable by the community executed power, the community feared that this would endanger them. “By excluding the village chiefs from the councils, they were not perceived by the community to have any political authority, which in turn meant that they could not form the basis of local government.”

The development of local governance needs sustainable financial and human resources (i.e., people who have the skills to perform the local government functions). It needs to be tailored to the power structure both vertically and horizontally. Most of all there will be a need for patience and time before the local government and its representatives to gain experience, and for the people to start believing in it as an adequate authority.

The following table summarizes the various forms of integration between traditional and modern structures, depending on their performance. The table is based on the assumption that traditional authorities already have a relatively high level of legitimacy in the view of the local population. It would be undesirable to rely on traditional structures if the traditional authorities are not seen as legitimate in the first place.

Table 4 Inclusion of traditional authority and performance of local governments

<i>Performance of modern local government</i>	<i>Performance of traditional authority</i>	
	High	Low
<i>High</i>	Co-operation between local government and integration of traditional authorities possible and feasible	Strengthening and transformation of local government, limited role for traditional authority
<i>Low</i>	Traditional authority may serve as local government, gradual transformation	There is the need to build new local government, high demand of resources and time

There are four different situations that can be derived from this table:

- If the performance levels of both the modern local government and traditional authority are high, cooperation appears to be a suitable scenario. This cooperation can be through formal inclusion and/or formal procedures of consultation and advocacy of traditional authority, or by contracting out management of resources.
- If the performance of local governments is low and the legitimacy and performance of traditional authority is high, giving traditional authority a stronger role in local governance might be the most desirable option. State-building at the local level demands the kind of resources governments in developing countries usually do not have, therefore the reliance on existing structures can ease the demand on limited resources.
- If the performance of local governments is high but lower for traditional authorities, modern institutions will most likely build governance at the local level and foster local development. This arrangement should not exclude the participation of various groups beyond elections, where traditional authority can be one among many partners in local governance and development.
- If both traditional structures and local government do not function well, there will be a need to build local government from the bottom up. This situation is likely in conflict or post-conflict societies where traditional structures have been destroyed and not yet replaced. There will be a much greater demand for resources and time in this scenario.

5.3 Changing structures, changing roles

One of the important elements that needs to be taken into consideration when increasing the role of traditional authorities within a government is that changes in existing social and political structures change the roles of various actors. It is important to look at traditional

structures in this dynamic way. As all societies change, so do traditional structures and leadership.

A constant transformation of traditional societies has taken place over the past 200-300 years. Colonialism strongly influenced the way in which different traditional societies were organized. To acknowledge both the legitimacy of traditional structures and the dynamics of their transformation over time makes it possible to discuss the role of traditional structures in an open manner, and to assess them according to various criteria such as legitimacy and social inclusion.

There must be awareness that intervention in any existing system also changes the dynamic of power in a society. Though it sounds very simple, it is often neglected in discussions about decentralisation. Decentralisation is not just a public management procedure but also a shifting of power from the central to the local level. To recognise traditional authorities as legitimate sources of power in a constitution would boost their influence and importance vis-à-vis the government. This could be desirable in some respects. It might help to stabilise a society or make local development more responsive to local needs. But it has long-term consequences, considering the fact that once given, power and resources are difficult to take back. Strengthening traditional leadership might transform their leadership again, as it has been transformed in the past few decades.

The experience of East Timor demonstrates the typical dilemma that occurs where traditional authorities have been excluded from local government (Chopra and Hohe 2004: 12). “For instance, in order for the local councils to have better fulfilled the intentions behind them, the village chief should have been included as the amongst many other factors affecting the project. Through him they would have commanded the authority in accordance with local perceptions. Doing so however would simply reinforce existing power structures, which internationally would be regarded as unequal and gender biased, and conflicting with individualistic values of human rights and democracy. Alternatively, a decision could be made to challenge the existence of the village chief and dismantle traditional structures, replacing them altogether with administrative institutions of the central state. That would be a radical social engineering project that could be conducted brutally or, if done humanely, might simply fail. A more sophisticated approach is necessary.”

Elements of a more sophisticated approach have been presented above, where the degree of integration shall depend on the degree of performance and legitimacy of traditional authorities. If legitimacy, inclusiveness, accountability, responsiveness and the recognition of core elements of human rights are poor, giving an important role to traditional leaders does not seem to be appropriate. Their recognition will strengthen their role, but most likely not contribute to good local governance. On the other hand, in many countries the recognition of traditional leaders, plus their formal or informal integration in local governance and various

forms of co-operation will lead to an improvement in local governance. This will contribute to an improvement in people's everyday lives.

6 Appendix

6.1 Decentralisation and traditional authorities

The growing interest in existing traditional structures is strongly related to the popularity of decentralisation, federalism and development. This shift in focus from the national to the local level followed the recognition that attempts to develop societies socio-economically in a top-down approach did not reach large parts of the population, and did not contribute sufficiently to poverty reduction. Large macro-economic or infrastructure programs might have led to an increase in overall economic performance, but it did not necessarily reduce poverty because the benefits of these programs did not reach the poorest parts of the population.

A bottom-up approach – based on decentralised structures - seemed to be a promising alternative to the macro-development approach (Manor 1999). Decentralisation has an appeal for many actors in development, who very often disagree on other issues. The left because it stresses participatory aspects of self-government in a communitarian way, neo-liberals because it means shifting away power from central governments that are seen as inefficient bureaucracies, and development agencies because the centralist approach shows poor results in poverty reduction, especially in rural areas where poverty is greatest.

The hopes for different impacts of decentralisation are:

- *Increased responsiveness to local demands.* The central government might not be adequately informed about both the local needs and their preferences. It is also difficult to adjust programs to specific requirements that can vary from region to region from the central level.
- *Increased accountability.* Decentralisation enables citizens to oversee the performance of local government.
- *Reduced corruption.* The system of checks and balances works better at the local level, and decentralisation may be expected to reduce the abuse of power. Many developing countries suffer from corruption. With decision-making decentralized, the local population might become more aware of the sub-national governments actions than of those of the central government.
- *Better and more effective management of local resources and revenue collection.* Making local government more responsive to peoples demands might increase the willingness of individual households to contribute to local services. Local governments may also be more willing to increase revenue collection if they can determine how the revenues are to be used.

Decentralisation in theory is supposed to bring state service providers and service users (such as basic local services, e.g. land planning, basic infrastructure, local development, health, education, etc.) in closer cooperation. This should make it possible to identify and fulfil the needs of the population more efficiently than the central government. Because of this more direct link, the control that citizens have over their governments should become greater. This should make the government more responsive to people's needs and more accountable to them.

Some studies show empirical links between decentralisation and various dimensions of governance. Shah (2000: 22) finds that in decentralised countries, participation, judicial and bureaucratic efficiency, human development, and income equalities become higher, and corruption becomes lower.

Decentralisation also has its critics and the empirical evidence is not always clear. While decentralization shifts resources and authority to the local level in most countries, the optimistic expectations of decreased poverty are often not met (Azfar et. al. 2001: 75). Decentralisation faces various difficulties:

- *Local elites who are not necessarily more responsive to local demands.* For Prud'homme (1995) it is not clear whether decentralisation has made local governance more efficient. He finds that decentralisation runs against redistribution and stabilization because it has strengthened and increased the influence of the local elites and not the local people. Decentralisation can then bolster the power of the local elites instead of facilitating equality in participation and representation.
- *Decentralisation does not lead to greater resource mobilisation and revenue collection necessary for pro-poor policies.* Schneider (2003) makes a clear distinction between administrative decentralisation that is positively related to pro-poor policies, and political decentralisation that is negatively related to pro-poor policies. He finds that political decentralisation actually lowers the capacity of the local governments to collect taxes, because the local elites often need to favour those with greater influence and wealth.. This means that there will be fewer resources available for re-distributive, pro-poor policies (for similar findings see Crook and Sverisson 2001).
- *Resistance of central governments and unequal decentralisation.* Central governments and administrations, which are often weak, do not want to give up control, power or resources to the lower levels so do not substantially support attempts to decentralise (Olowu 2001). This can have various reasons, one of which is that governments may fear the loss of national cohesion. But governments may introduce and favour decentralisation policies if it will improve their political support. Assessing a number of case studies, Crook and Sverisson (2001) conclude that decentralisation meets its goals when central governments have a commitment to pro-poor policies in order to broaden their support among the poorer population. In this case, governments are pre-

pared to actively engage in local politics, both to challenge the local elites and ensure the implementation of such policies. If the central governments' decentralisation goal is to consolidate its power through the local elites, the central resources are directed on a clientelistic basis rather than on actual needs.

- *Lack of resources and limited reach.* It is often the case that power and responsibilities have actually shifted, but without reliable resources and transfer mechanisms. The new local governments are established without obtaining the necessary resources to function as expected. Even where there are clear rules of inter-governmental fiscal transfers, central governments do not transfer financial resources regularly or reliably. This insecurity hinders proper and sustainable planning at the local level. Furthermore, many central governments lack resources and only limited amounts of money can be transferred to the local level. Consequently there is not enough to distribute among different local governments within that country.
- *Hopes for the local population are not met.* Under-resourced decentralised governments do not have much to offer. It might be a little progress in education, or a marginally improved health system. Both the scale and reach of such amelioration attempts is often very small and insignificant. As a consequence, it is not surprising that local governments have often not succeeded in playing a dominant role in the community with their disappointing performance. In addition, the possibility to increase revenues for local governments through taxes or other forms of tributes, especially in poor rural areas, is very limited.
- *Decentralisation is costly.* With decentralization, new institutions must be built and staffing and training carried out at the local level, all of which incur significant transfer costs. In government or development agency programs, usually only a small number of decentralised units can be financially covered in capacity building activities. Project management costs are far too high for most development agencies to run projects in a large number of local governments. Furthermore, the need for basic infrastructure in some local governments is very great. Donor agencies hope that by working in one local area, it will have an impact and spill over effect on others. But these hopes are not often granted.

These difficulties must be taken into account when examining the possible role of traditional authorities in local governance. One of the further problems with the attempts at decentralisation is that the existing social, economic and political structures are often neglected when decentralised political and fiscal structures are designed on the drawing board.

Traditional power and ruling structures are an existing reality that cannot be ignored. Every society has its own norms of production and economic regulations, as well as social norms and values, but are often not recognised.

The idea of traditional rule raises interesting questions about western democratic theories. In the history of Western Europe, democratic governance replaced the traditional rule of nobles and monarchs. The constitutions of the newly independent states from colonial rule were also strongly influenced by democratic theories. Communist and socialist ideologies also did not recognise traditional authorities, because the distribution of power to the local areas and to other forces was not compatible with the concept of a single party, centralised state characteristic of socialist regimes.

Taking into account the problems with decentralisation, relying on traditional structures could be an attractive option to improve local development. Compared to state administrations, traditional structures do not need to be built from the start. Establishing new political and administrative institutions on the other hand can be difficult, costly and time consuming. If there is a structure already functioning at the local level, it is logical to include them in improving governance at the local level.

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