

**ROLE OF TRADITIONAL STRUCTURES
IN LOCAL GOVERNANCE FOR LOCAL DEVELOPMENT
THE CASE OF BOTSWANA**

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1. Background :

i. A brief historical account of traditional structures in the country:

The institution of chieftainship and its associated traditional structures, have existed in this part of the world from the pre-colonial times. These have survived in Botswana through the vicissitudes of colonial times and have continued to exist during the post independence period with changed status, powers and functions. The traditional leaders (Chiefs) enjoyed unlimited and undefined powers over the tribe during the pre-colonial period. The chief was custodian of tribal land and allocated it to tribesmen for ploughing or residential purposes. The villages were divided in to several wards, each headed by a headman. The chief settled disputes, pronounced on tribal customs and traditions, and ruled on matters concerning the tribe in consultation with its members.

During the early period of colonial rule, the colonial government exercised minimal control over tribal structures. In 1891, a Resident Commissioner and Assistant Commissioners in districts were appointed in the Bechuanaland protectorate. These were given jurisdiction as Resident magistrates but the jurisdiction of their courts was limited to exclude all cases in which Africans were concerned, unless such cases were in the interest of good order or prevention of violence. In 1899, when the Hut Tax was introduced, the chiefs were appointed as local tax collecting officers and they received up to ten per cent of the proceeds. In 1920, the Native Council (renamed the African Advisory Council in 1940) was constituted to serve as an advisory body on African interests to the Resident Commissioner. In 1934, the Native Proclamation was issued which formally recognized the tribal chiefs and their authority. The proclamation did not materially alter the traditional institution but simply formalized it. The chiefs opposed it, as an attempt to codify their authority was perceived by them as a limitation of their erstwhile sovereignty and unlimited authority. In the same year, the tribal court system and its jurisdiction were formally recognized. This was also met with opposition from the chiefs. In 1943, the Kgotla (village assembly) was acknowledged as the advisory council of the chief. In 1956, the Tribal Councils and District Councils were introduced. The chiefs headed these councils and the membership consisted of some members nominated by the chairmen and some elected by Kgotla. These councils headed by chiefs performed limited local government functions up to independence of the country in 1966, when a new system of elected local government following the principle of universal adult franchise was introduced throughout the country.

ii. Situation of the democratic transition process at the national level:

The traditional institution of chieftainship and related traditional structures were retained in Botswana after independence and the chieftainship law provided the legal cornerstone for the recognition and functioning of the traditional institution. The President of the

independent republic of Botswana was given the authority for the recognition, appointment, deposition, and suspension of chiefs (the authority was later vested in the minister). A chief exercises traditional authority after consultation with the tribe. The chief arranges tribal ceremonies, assists in checking crime, promotes the welfare of his tribe, convenes and presides over Kgotla meetings. It is significant to note that in Botswana the law requires every chief to carry out instructions given to him by the minister. Any chief who fails to comply with any direction given to him by the minister is liable to be suspended or deposed. The chiefs are paid salaries as fixed by the minister by order published in the Gazette. Different rates are fixed in respect of different chiefs. The minister is also authorized to make regulations for the better carrying out of the provisions of the Chieftainship Act, including general conditions of service and the procedure for taking disciplinary action. Provisions of the Chieftainship Act, which give enormous authority to the minister, establish complete supremacy of the central government over the traditional leaders in Botswana.

iii. Brief on the status of decentralization and the responsibilities of local governments

Realizing the political, economic and administrative significance of decentralization, Botswana has promoted local government and decentralization in its democratic set-up through techniques of devolution (creation of statutes) as well as deconcentration (administrative measure without resorting to statutes). The institution of chieftainship and traditional tribal administration structure is one of the four main organizations of public administration machinery and local government at decentralized local (district) level. The other three organizations operating at that level are: District Council (led by elected councillors every five years to perform certain authority and functions such as primary education, primary health, rural roads, village water supply, community development and social welfare, etc., given by the statutes); District Administration (headed by District Commissioner, a civil servant appointed by the central government, whose primary responsibility is to serve as a coordinator of district level planning and development); and Land Board (a statutory body consisting of politically neutral members, some elected by Kgotla and some appointed by the minister periodically, to hold the tribal land in trust and allocate it for residential, agricultural, industrial, commercial or general development purposes; the authority exercised by the Chiefs before the creation of these Land Boards). Rural local government in Botswana is expected to operate with close co-operation, communication, and coordination among these organizations.

Democratically elected district councils comprising local government were introduced in Botswana only after independence in 1966. Before independence, tribal councils headed by traditional leaders performed limited local government functions. These councils included some members nominated by the chief and some elected by the Kgotla. After independence, democratically elected bodies established by statutes of parliament replaced these tribal councils. Land Boards established through the Tribal Land Act in 1970, were a unique innovation in Botswana. These newly created organizations took away the exclusive authority of chiefs for allocation of tribal land. When the Land Boards were created, chiefs were *ex officio* members. They were removed from Land Boards

after some years. The chiefs had constrained relationship with the land boards for some years, mainly because they lost their exclusive prestigious authority over tribal land. They have now reconciled to the changed situation. The District Commissioner's office was established during the colonial period and that office has served as representative of central government in the district since then. Besides other responsibilities, due to his responsibilities related to coordination of district level planning and development, he chairs the District Development Committee (DDC), which consists of all district level organizations (including district council, land board and tribal administration) involved in rural development at district level. Chiefs as traditional leaders are expected to give their active participation and cooperation in this forum by relating well to all the organs of local government and administration.

iv. Short description of the historical, political, economic, social, ethnic and environmental characteristics of the tribal structure:

Although Botswana is a small country in terms of its population (about one and half million), it consists of a number of tribes. The Constitution (section 78) mentions eight tribes: *Bakgatla, Bakwena, Bamalete, Bamangwato, Bangwaketse, Barolong, Batawana, and Batlokwa*. (The other tribes such as *Bakalanga, Basarwa, Bakgalagadi, Bayeyi* have come in limelight due to assertion of nationalism against alleged domination of some other tribes). Before the establishment of *Bechuanaland* Protectorate in 1885, migrations and population movements in the region arising from conquests and wars resulted in upheavals in the tribal states that make present day Botswana. The desire of the Rhodes British South Africa Company to annex Botswana and make it another province of South Africa prompted three Batswana Chiefs (Batheon, Khama and Sebele) to persuade Queen Victoria to keep their land under British protection. With the beginning of the protectorate period, the colonial government recognized *diKhosi* of five states – *Bakwena, Bangwato, Bangwaketse, Bakgatla and Batawana*- as paramount chiefs, and this recognition was later extended to *diKgosi* of *Balete, Batlokwa and Barolong*. The land occupied by these *merafe* was called 'Native Reserves', and the remaining land under the jurisdiction of the colonial administration was known as 'crown land'. In Botswana, the administrative districts and geographical boundaries of district councils of local government coincide, by and large, with particular tribal groups residing in different area of the country.

2 Today's Traditional Structures:

Unlike many African countries, the traditional institution of chieftainship was retained in Botswana after independence and the traditional structures were given recognition and authority by various Acts of parliament (such as *Chieftainship Act, Customary Courts Act, Tribal Territories Act, Local Police Act, Stocktheft Act, Marriage Act, Succession Act, Children's Act, Adoption of Children Act, Circumcision and Initiation Rites Act, Affiliation Proceedings Act, House of Chiefs (Powers and Privileges) Act, Witchcraft Act*, etc.) Some tradition based structures like the House of Chiefs were established by the constitution of independent Botswana.

2.1. Internal Governance:

The Chieftainship Act lays down the functions and powers of chiefs at different levels of traditional structure and tribal rule. This Act outlines the provisions for appointment and removal of the Chief, Sub-Chief, Regent, Chief's Representative, and Village Headmen. According to this Act, "A Chief is an individual who has been designated as a Chief in accordance with customary law by his tribe assembled in Kgotla; and has been recognized as a Chief by the Minister." The functions of a chief, according to the Act are: to promote the welfare of the members of his tribe; to carry out any instructions given to him by the minister; to ensure that the tribe is informed of development projects in the area; to convene Kgotla meetings to obtain advice as to the exercise of his functions; to determine questions of tribal membership; to arrange tribal ceremonies; and to prevent commission of any offense within his tribal territory. A chief is identified by the Kgotla in a customary manner and is appointed by the minister. The minister can at any time withdraw recognition from a chief if he /she considers it to be in the public interest to do so. The minister can suspend a chief if he/she believes that the chief is incapable of exercising his powers, has abused his powers, or is for any reason not a fit and proper person to be a chief. The Minister can do so if a section of a tribe lodges such complaints with the minister against the chief. After such suspension minister must hold an enquiry to confirm that the allegations made against the chief are correct. After doing this, the minister can depose or suspend a chief for a period not exceeding five years if he considers it expedient and in the interest of peace, good order, and good government. The minister is authorized by the Act to issue directions to any chief for the better carrying out of his functions. Any chief who fails to comply with any direction given to him by the minister is liable to be suspended or deposed. Besides the *Chieftainship Act*, the powers and functions of chiefs are also covered by a number of other Acts such as those mentioned above.

i. Cosmic justification for the traditional structures' existence:

The government has retained and given formal recognition by law to the traditional institution of chieftainship and its associated traditional structures by realizing that the people in rural areas continue to have respect for and faith in the traditional structures. The politicians, irrespective of their affiliation with different political parties, favour the retention of these traditional structures as they realize that dismantling of these structures could result in opposition from them and the tribes, and could make a serious dent in their own support base. It is partly for this reason that although the politicians exercising political authority have gradually curtailed the powers, authority and functions of chiefs since independence, the institution of chieftainship has been retained and the tribal administration structures continue to play specified roles in society and public administration of the country. In order to ensure that they are not driven in to opposition, the ruling party has handled the traditional institution of chieftainship in such a way that the chiefs are retained but possess limited powers. A Presidential Commission (known as Venson Commission), which reported measures for strengthening local government structure in 2001, gave further justification for traditional structures: "The Commission

was convinced that the role of traditional leaders in Botswana remains pivotal to development process. The principle of consultation continues to be dependent on the Kgosi and his Kgotla. The Commission concluded that successful service delivery depends on the extent to which the communities are involved and informed about developments in their villages.” The Commission therefore recommended that “the institution of Tribal Administration should be retained and it be allowed more funding, competent human resources, and facilities to enhance its status”.

ii. Traditional legal foundation (oral /written / non-codified)

The traditional leaders derive their authority partly from tradition and partly from the laws of Botswana. As presiding officers in the customary courts, they impart justice following common law as well as customary law. Common law provisions are enshrined in the statutes and the penal code that they follow. Customary law is by and large non-codified and is derived from oral tradition. The traditional leaders are expected to be good at both. “*Common Law and Customary Law Act*” is meant to give guidance in this respect. This Act defines Common Law as “any law, whether written or unwritten in force in Botswana other than Customary Law”. “Customary Law” according to this Act “consists of rules of law which by custom are applicable to any particular tribe or tribal community in Botswana, not being rules which are inconsistent with the provisions of any enactment or contrary to morality, humanity or natural justice”. The Act provides that “any question as to the existence or content of a rule of customary law is a question of law for the court and not a question of fact”. If the court entertains any doubt as to the existence of content of a rule of customary law relevant to any proceedings, it may consult reported cases, textbooks and other sources, and may receive opinions either orally or in writing to arrive at a decision in the matter.

iii. Organizational structure

The Chief (Kgosi) heads the tribal administration covering the jurisdiction of his tribe. There are eight chiefs leading the eight tribes mentioned in the constitution (as outlined above). The chiefs and their staff are public servants as they are paid from public funds and have been entrusted with the responsibility to run public office. The eight chiefs are placed in a senior scale (D2) of the public service. The hierarchy of chieftainship, number of posts in the country and their salary scales (in descending order) under the Chief are: Deputy Chief/Deputy Tribal Authority (8-D3); Senior Subordinate Tribal Authority/Senior Chief’s Representative (56- C1); Chief’s Representative/ Sub-Tribal Authority (99-C2); Sub-Chief (28-C1); Deputy Sub-Chief (1-C2); Headman of Record (305-C3); Headman of Arbitration (342-B3); making a total of 847.

Tribal Secretary (D4) heads the tribal administration under the Chief. The hierarchy below the Tribal Secretary (in the descending order) consists of Deputy Tribal Secretary (C1); Assistant Tribal Secretary (C2); Senior Court Clerk (C2/C3/B1); Court Clerk (C4/3B5/B3); Typists (B-1/B-2); and Industrial Class Workers.

The traditional leaders and customary courts are served by 'local police force', which is not a part of Botswana's national police force and is established by the Local Police Act for the performance of the duties set out in the Act. The Chief or Sub-Chief of the area administers the police force subject to the general or specific directions of the Minister.

At the central government level, the administrative machinery responsible for tribal administration and customary courts forms a part of the Ministry of Local Government. Director of (the Department of) Tribal Administration advises the Minister of Local Government regarding tribal administration. This Department also includes the headquarters of local police and the Customary Court of Appeal.

iv. Functions and powers:

The functions of a Chief according to the Chieftainship Act are: to promote welfare of the members of his tribe; to carry out any instructions given to him by the Minister; to ensure that the tribe is informed of development projects in the area; to convene Kgotla meetings to obtain advice as to the exercise of his functions; to determine questions of tribal membership; to arrange tribal ceremonies; and to prevent commission of offence within his tribal territory. The chiefs play a significant role in presiding over the customary courts, which handle about eighty to ninety per cent of civil and criminal cases handled in the country. Kgotla (village assembly) presided over by them serves as an important channel of communication between the government and the people. The House of Chiefs serves as a forum to articulate their views on matters of their concern. For exercise of these functions, they enjoy the powers and privileges as outlined in various Acts as mentioned above, besides the authority, respect and following of the community they get from the tradition.

v. Traditional law / policy making and implementation

The House of Chiefs serves as a forum for the traditional leaders to make their contribution on matters of interest to them or their tribes. Kgotla is another forum where they could provide leadership to the community on matters related to development policies or their implementation including aspects related to the traditions, customs, or challenges posed by the process of modernization.

vi. Traditional justice

One of the most significant roles of traditional leaders in Botswana is in imparting justice on customary lines through the customary courts. The customary courts handle approximately 80% of criminal cases and 90% of civil cases in the country. These courts are popular in the rural areas, as these are easily accessible, fast and comprehensible to the ordinary people. These are not as technical and expensive as the magistrates' courts.

The provisions of the Penal Code guide the customary courts in trying the criminal cases. The customary courts do not have jurisdiction to try some specified cases such as treason, murder, robbery, rape, etc. These courts may sentence a convicted person to a fine,

imprisonment, or corporal punishment within the prescribed limits. No customary court can sentence any female or any person over the age of 40 years to corporal punishment, which can be administered only on the buttocks and not on backs. Some Acts such as the *Stock Theft Act* authorize these courts with significant powers of imprisonment up to 10,14, or even 20 years. The practice and procedure of customary courts are regulated in accordance with customary law, subject to such rules as may be promulgated by the Minister. The District Commissioner's and the office of Customary Courts Commissioner have exercised authority to review the cases tried and sentences imposed by the customary courts. There are provisions for having the cases transferred to magistrates' courts. Subject to the given provisions, the parties aggrieved with the judgment of customary courts can take the appeals to the Customary Court of Appeal and from there to the High Court. Legal representation is not allowed in customary courts.

vii. Representation mechanisms for authorities (leaders, bodies): selection / election / inheritance

Chieftainship is a hereditary institution of traditional leadership with built-in mechanisms in the tradition for his accountability to the tribe he leads. Consent of Kgotla is required by tradition for appointment, ratification, suspension, and dismissal of traditional leaders. The *Chieftainship Act* lays down the provisions for appointment and removal of the Chief, Sub-Chief, Regent, Chief's Representative, and Village Headmen. According to this Act, "a Chief is an individual who has been designated as a chief in accordance with customary law by his tribe assembled in Kgotla; and has been recognized as a Chief by the minister". Where there is a vacancy in the chieftainship of a tribe, due to death, deposition or abdication, the tribe assembled in the Kgotla under the chairmanship of the senior member of the tribe designates the rightful successor to the chieftainship according to the customary law. The minister can at any time withdraw recognition from a chief if he/she considers it to be in the public interest to do so. Where a person designated as a chief is below the age of 21 or is undergoing full time course of education, the tribe designates another person as 'regent' of the tribe according to customary law. The minister appoints such designated person as 'regent'. The minister can appoint a person as 'tribal authority' when the person designated as chief is unable to assume chieftainship or when there is a vacancy in the chieftainship for any reason. A chief may appoint a deputy chief but such an appointment has to be approved by the minister. A chief is authorized to recognize any person as Headman in respect of any area of his territory after consultation with the Kgotla. The chief in like manner can terminate the recognition. However, the minister can cancel the recognition of such headman and may recognize another person as he deems fit, if in his view the recognition of a Headman has been made without due consideration of wishes and interests of Kgotla. A chief may, after consultation with the people of the area, with the approval of the minister, appoint any person as his representative in respect of any area of his tribal territory and may in like manner terminate the appointment. However, the minister can make such appointment as he deems fit, if he is satisfied that the appointment of the person proposed by the chief as his representative would not be in the interest of the people of the area. The minister can suspend a chief if he/she believes that the chief is incapable of exercising his powers, has abused his powers or for any reason not fit and proper person to be a chief. The minister

can do so if a section of a tribe lodges such complaints with the minister against the chief. After such suspension minister must hold an enquiry to confirm that the allegations made against the chief are correct. After doing this, the minister can depose or suspend a chief for a period not exceeding five years if he considers it expedient and in the interest of peace, good order and good government.

2.2. Local Development:

- i.** Mechanisms, types and level of responsibility of tribal structures and their contribution to local development:

Chiefs as traditional leaders, and traditional structures such as Kgotla, are expected to play an active role in local development. In the process of decentralized development planning at the district level, the contribution of chiefs and Kgotla becomes significant. Chiefs have to give their active participation in the deliberations of the District Development Committee (DDC), which consists of representatives of all the district level organizations involved in district level development administration. The District Commissioner as chairperson of DDC needs the cooperation of chiefs in coordination of district development plans and their implementation. As Kgotla has served traditionally as a channel of two-way communication between the government and the people, its role for consultation with and participation of people in the district level development planning process remains vital. The Village Development Committees (VDCs) could become active agents of people at the grassroots with effective leadership of chiefs and active interest by Kgotla.

As the traditional leaders are concerned with overall development issues and activities taking place in their jurisdiction, and traditional structures are involved in the process of district level development planning and implementation, their actual and possible contribution becomes manifest with regard to many activities. They can contribute towards protection, management, and allocation of natural resources by lending support to the Community Based Organizations (CBOs) in the concerned districts. They can be instrumental in resource mobilization and in enhancing revenue for the state by informing and educating the community for timely payment of taxes and service levies and by explaining the significance of cost-recovery or cost-sharing principles in service delivery. They can give active and effective leadership to the community and VDCs in organizing self-help projects and in engaging the NGOs. Their leadership could be a source of education for prudent use of local resources (like water, firewood). Kgotla and customary courts are instruments of the traditional structures for resolution of conflicts related to the use of resources if any.

Contributions of the traditional structures and of the traditional leadership:

- for the political stability in the transition:

Traditional leadership and traditional structures have contributed to the political stability in the country during the period of transition from colonial period to independence. After

independence, the government, under the leadership of Seretse Khama (a Chief himself) retained the traditional structures and integrated these in to the public administration machinery of the country. As a result, the traditional leaders did not pose any threat to the stability of the country, even when there was a decline in the powers, functions and status of traditional leaders and traditional structures after independence.

- for the democratization of the country:

Traditional leaders and traditional structures did not inhibit the process of democratisation in the country after independence. Although there was a steep decline in the functions, powers and status of the traditional leaders after independence (the introduction of democratically elected councils took away the functions earlier performed by tribal councils; Land Boards took away the exclusive and prestigious authority of allocation of tribal land from the chiefs; etc.), they gradually reconciled to the newly established democratic structure of the country and got integrated in to the new set-up.

- for the independence of the judiciary:

Traditional structures complemented the administration of justice in the country through the customary courts, which handle 80 to 90 per cent cases of the country. Although the administration of customary courts is faced with severe limitations and needs to be strengthened, these traditional structures have not posed any serious threat to the independence of the judiciary enforcing common law.

- in helping the political institutions and the administration to obtain their legitimacy:

Contemporary political institutions and administration have used the traditional structures to enhance the legitimacy of public policies, development plans and decisions, which require people's participation at the grass-roots in a democracy. Traditional institution of Kgotla is used for consultation, communication and public participation and for enhancing the legitimacy of public policies and plans formulated at higher levels.

- in building of a "national state" administration:

Traditional leadership, traditional structures, and tribal identities have not created such serious political divisions as to pose a serious challenge to the existence of 'nation state'. Although some tribal groups have expressed their dissatisfaction for not receiving a fair treatment (this surfaced particularly in 2000 at the time of the Presidential (Balopi) Commission for reorganisation of the House of Chiefs), these are far from being disruptive to the existence of 'nation-state'. The Botswana political system seeks to promote unity in diversity

- for bridging the gap between urban centres and rural societies:

Although migration from rural to the urban areas is increasing constantly as a result of economic development, the people residing in urban areas continue to have their links with the rural areas (some members of their extended families continue to live in rural areas) and continue their allegiance to the tribal structures of the areas from where they originate. This phenomenon helps to bridge the gap between urban and rural societies.

- for protecting cultural diversity, resisting homogenizing approaches in nation building:

Continued existence of tribal structures helps in maintaining the cultural diversity as these structures are expected to maintain and promote the best customs and traditions of their tribes. It is understood that homogenizing approach to nation building can be counter productive in heterogeneous and plural societies having pride in their own cultures and traditions.

- in planning, implementation and monitoring of local development initiatives and in consolidating a bottom-up process:

Realizing the significance of people's participation in development planning, the government of Botswana has expressed its commitment to bottom-up planning and has developed decentralized planning machinery at the district level. The traditional leaders and structures (Kgotla) are associated closely with the process of formulation, implementation and monitoring of district plans. Traditional leaders are members of District Development Committee (DDC), which coordinates the district plans and monitors their implementation. Kgotla serves as a forum for consultation with people and their participation at different stages of formulation and implementation of development plans. This traditional forum serves as a channel of two-way communication between the government and the people in the process of bottom-up planning.

ii Traditional structures and civic participation in the management of local development:

Traditional structures like Kgotla have sought and promoted participation of the community in local development through the activities of Village Development Committees (VDCs). The traditional leaders have been a significant source of support for self-help projects launched by the VDCs. Cordial relations of traditional leaders with the elected councillors in formulation or implementation of development projects, their involvement in various community development and social welfare activities are manifestations of the work of traditional structures with civic participation.

iii Customary laws and local development: how do they facilitate / constrain effective resource management? Are they conducive to resource creation? Are they used to sanction corruption and mismanagement of development funds?

Customary laws have facilitated resource management traditionally in so far as these have been instrumental in promoting community spirit and a sense of belonging. For instance land, a major resource, was not privately owned. The chief held the tribal land in trust on behalf of the tribe and allocated it to members of the tribe for use. Legally land could not be sold. Land as a commodity was to be valued for the benefit of all. Chief saw to it that every family had land. Extended family system operated as social insurance and safety net. With those values and norms the uncles could pay for the school fees or medical expenses of the children of brothers or other members of extended family. The unemployed, disabled and destitutes were looked after within the family. There were no orphans. Trust and cooperation within the family and the community facilitated resource management and resource creation. However, customary law has also been a constraint as a result of being based on customs, traditions, values and norms, which have inhibited economic development and required social change. For instance, gender inequality and treatment of women as minors not only perpetuates social injustice, such practices prevent a large section of society from making their rightful contribution to the process of development. Under customary law resources such as land, cattle have normally been allocated to families and lineages through male heads. The women had no direct control of these resources except through the male guardian (father, husband or uncle). When the husband dies, the eldest son inherits the deceased's estate. Wife and daughters do not. (Some customary courts presided over by Chiefs like Linchwe have given progressive judgments recently giving rights to the wife of the deceased, giving consideration to the contribution made by the family member to the estate of deceased, etc.). If customary law has to facilitate resource management and resource creation, it has to be adapted and interpreted in a progressive manner by the traditional leaders and chairmen of customary courts who need to be conversant with developments taking place in society and who can promote a healthy balance between tradition and modernity. Survival of customary law will depend on the dynamism and responsiveness it displays in the face of changing realities in the society.

The traditional structures do not handle significantly large development funds in Botswana, however, they may be custodians of funds raised by the community (VDCs) for self-help projects, etc. There could be room for corruption and mismanagement if the community fails to institute effective mechanisms of accountability.

2.3. Local perceptions of traditional structures:

i. Sources of legitimacy of the leaders and leadership bodies:

The sources of legitimacy of traditional leaders can be traced from pre-colonial history and culture. The chiefs have continued to enjoy traditional authority over their tribes since pre-colonial times. They continued to get obedience from their tribes during the colonial period and enjoy respect of their communities in the contemporary Botswana. After independence, various laws of the country (like *Chieftainship Act*, *Customary*

Courts Act, etc.) also became a source of their authority and legitimacy. The institution has also received recognition in the constitution (which establishes a House of Chiefs).

ii. Local good governance criteria:

Good governance at local level is to be determined by answers to the following questions: Is there participation of people (and NGOs, CBOs) in the governance? Does it strengthen grass-roots democracy and empower citizens? Is the administration accountable, responsive and transparent? Is it socially inclusive? Do the poor, vulnerable and underprivileged sections of society such as women and youth have voice? Is there respect for the legal order and rule of law? The nature of governance by traditional structures in these respects is discussed below in (2.4).

iii. Integration or dualism of structures → what do people feel serve better their interests?

The modern and traditional structures form integral parts of local government in Botswana. These structures by and large complement each other. Local government structure in Botswana stands on four pillars: Councils, District Administration, Land Boards and Tribal Administration. These organizations perform separate functions and relate to each other in different forums, like District Development Committees, for coordination and harmonization of their activities. The people receive different services from both the modern and traditional structures and both have legitimacy in exercising authority. In case of some structures such as customary courts and magistrates' courts imparting justice, people generally have a choice to go to one or the other. Customary courts are more popular in the rural areas as these are more easily accessible, comprehensible, less technical, fast and inexpensive. The customary courts handle 80 to 90 per cent of the cases handled in the country. The educated people from the urban areas, however, are not comfortable with these courts and prefer to go to magistrates' courts, where legal representation is also allowed.

iv. Degree of variety of opinions in the local society → who are the vectors for change?

Although the people in the rural areas continue to have faith and respect for the traditional authorities, the same cannot be said for the young and educated people from the urban areas. Some from this section of the population do not feel comfortable with some characteristics of these traditional institutions such as inheriting the office by heredity, gender bias, untrained customary court chairmen, low caliber staff in tribal administration structures, etc. Some people holding these views would either like to have these traditional structures done away with or have these changed significantly. They would like the hereditary inheritance of office to be replaced by recruitment on merit. They would like the traditional structures to operate without prejudice against women and give them better treatment. They would like to see women becoming chiefs if they have a case. They would like the customary court chairmen, tribal administration staff and local police to be better qualified and trained.

2.4. Good governance evaluation:

The track record of performance of traditional structures with regard to good governance is a mixture of positive and negative attributes. Although traditional structures could be credited with some positive attributes, they are faced with a number of challenges in promoting good governance.

i. Citizen participation in decision-making:

Kgotla has traditionally been a forum for consultation by the chief with the community. In the contemporary Botswana this forum has continued to play that role for enabling the community to participate in formulation and implementation of development plans and projects. The government officials, ministers and MPs address Kgotla meetings to explain government policies to the community and to receive feedback. (This forum does not allow party politics and politicians are not allowed to address Kgotla meetings under the banner of any political party). The effectiveness of this process of consultation and participation, however, remains limited for various reasons, as discussed below.

ii. The role, position and constraints of identifiable groups to participate and take decisions (e.g., women, youth, elders, disabled and immigrants):

The women, youth, disabled, immigrants and some lower status groups have traditionally felt inhibited in speaking their mind openly at Kgotla. The attendance at the Kgotla meetings fluctuates and is going down in some cases. The women who have started participating in discussions increasingly, tend to participate more actively on issues of development compared to issues concerning culture. There is a general feeling that consultation undertaken at Kgotla is ceremonial as the government uses this forum primarily for legitimizing the decisions made elsewhere. Respect for this forum is declining among the educated population of urban areas belonging to different tribes.

iii. Responsiveness, accountability and transparency in the exercise of the functions of traditional authorities:

The traditional authorities are expected to be responsive, accountable and transparent in theory and by tradition. The sayings like “khosi ke khosi ka batho” (a chief is a chief by the grace of the people) indicate that traditional leaders had to abide by the public opinion. Chief was supposed to have the interest of his people at heart. Before taking major decisions that affected the people, the chief had to consult his advisers, those placed in leadership positions and Kgotla. This was the expected social norm, but many traditional leaders have deviated from this norm. There were leaders who were autocratic and did not consult. Such cases resulted in dissatisfaction and disobedience. The gap between norm and the reality with regard to responsiveness, accountability and transparency has been difficult to bridge in the past as well as in the present.

iv. Respect of the legal order and the rule of law:

Traditional structures have not posed a threat to the country's legal order and the rule of law. These have operated within the established legal framework of the country exercising their legal and traditional authority.

3. Evolutional Trends:

3.1. From origins till today:

i Engines / factors of change in:

- the legitimacy of traditional structures

Government and contemporary political institutions (cabinet, parliament) have questioned and limited the authority of traditional structures during the post-colonial period. The traditional structures, however, continue with their modified traditional authority.

- their role in local governance and local development since pre-colonial times

During the pre-colonial period, the traditional leaders exercised unspecified authority. During the colonial period they exercised considerable autonomy as the colonial government at that time adopted a policy of minimum interference in the tribal administration. During that period, the colonial government curtailed the authority of traditional leaders in some respects (by measures such as codification of their functions and powers) and enhanced in some other respects (for instance by organizing Tribal Councils which started performing limited local government functions). After independence, the government assigned a role to the traditional structures in local development, development planning and governance as they were expected to give their contribution in the forums such as DDCs, VDCs and at the Kgotla. Customary courts also continued to remain significant for imparting justice on customary lines.

- ii Changes in structure, separation of powers, exercise of powers, representation mechanisms, competencies and skills in local development:

Local government in Botswana has grown out of tribal administration. Democratically elected councils were introduced in Botswana after independence in 1966. During the colonial period the government created Tribal Councils in 1956 to perform limited local government functions. The chiefs headed these councils and Kgotla nominated other members. As explained earlier, contemporary local government structure in rural areas stands on four pillars: District Councils (elected every five years to perform functions given in the statutes); District Administration (headed by District Commissioner appointed by the central government primarily for coordination of development planning); Land Boards (having some members appointed by the minister and some

elected by Kgotla to allocate tribal land); and Tribal Administration (under hereditary traditional leaders to exercise traditional authority). These organizations have to work in harmony for good governance and development at local level. The capacity of these organizations remains limited due to several reasons, primary being shortage of qualified manpower with commitment for development management. The government has reviewed the local government structure through Presidential Commissions in 1979 and 2001, and has undertaken to introduce recommended changes.

- i. Consequences of these changes / reforms on the performance of traditional structures in local governance and development (internal / external perception):

The local government structure reforms have strengthened the capacity of traditional structures to some extent. Salaries and conditions of service of chiefs and tribal administration staff have been improved. Although the tribal administration needs greater attention with regard to facilities in terms of transport facilities, offices and office equipment (such as computers, fax machines, etc.), there has been some improvement. The number of customary courts has increased. Customary Court of Appeal was introduced a few years back. The composition of House of Chiefs is being changed to enlarge its membership and give better representation to the tribes, which have felt discriminated. There has been some change in the public perception of these structures for the better.

3.2. Present challenges and trends

- i. Is the overall outlook with regards to the evolution of the role of traditional structures towards a higher or a lesser role?

The authority, powers, functions and status of traditional authorities declined soon after independence (with complete subordination of chiefs to the minister, the introduction of elected District Councils, creation of Land Boards, transfer of authority on Matimela (stray cattle) from traditional structures to the District Councils, etc.). The traditional leaders were dissatisfied with these developments, but reconciled to the changed situation gradually. Taking note of these developments should not mean that the government has been against this institution altogether. On the positive side one could note a number of steps taken by the government for strengthening this institution. For instance the government has upgraded the posts of Kgosi and Tribal Secretaries; has accepted to review the conditions of service of tribal administration, the number of customary courts has increased, Kgotla is being used increasingly by the government for consultation with the people, the House of Chiefs is being reorganized after the report of the Presidential (Balopi) Commission. The Presidential Commission on Local Government Structure (Venson Commission) made a number of recommendations to give “more funding, competent human resource and facilities” to the traditional structures, for strengthening the traditional structures. The government has accepted these recommendations in principle. All this is indicative of a higher role for the traditional structures in the coming years.

- ii.** Are traditional structures presently under threat of disappearance? From whom (population, government, civil society)? Is the threat global or targeted only at some of their prerogatives?

Traditional structures may continue to exist because of their age-old roots. Although as a result of growing urbanization, migration of population from one area to another, lack of interest in some educated youth, and aggressive attitude of some political leaders, the traditional structures are faced with a serious challenge to their authority and relevance. These nevertheless continue to retain their legitimacy, respect, and validity for large sections of population, particularly in the rural areas. Even the criticism of these structures is targeted generally at some specific aspects and is not for the institution as such. For instance some would like to change the conditions of service to introduce basic academic requirements, retirement age, open recruitment on grounds of merit, improved training, further reform in the composition and role of the House of Chiefs, etc., instead of abolishing the traditional structures.

- iii.** How will likely evolve in the near future the segment of the population which questions the legitimacy of traditional structures?

The segments of the population, which appear to be questioning the legitimacy of traditional structures, could grow if the traditional structures fail to perform and do not meet the expectations of the population. The legitimacy of traditional structures will come under stress as a result of growth of urbanization, modern education, universalistic norms, western values, limited education and training of traditional leaders, and rising expectations of people for improved performance.

- iv.** Which are the most decisive factors in pushing for change in the way traditional structures are involved in local governance and development?

Traditional structures, like other governing structures at the local level, have to continue to improve their capacity and performance in service delivery. These have to strengthen their management system and introduce required reforms. They have to improve their relations with other local government organizations for improved co-ordination. They have to improve communication and consultation with people in the process of planning and implementation of local development programs. They have to extend co-operation to the legitimate political authority in the central government. These are the most decisive political and economic factors pushing for change in the way traditional structures are involved in local governance and development.

- v.** Are there other non-state authorities that are gaining more respect and influence than traditional structures?

There are no non-state authorities gaining more respect and influence than traditional structures.

- vi.** What are the new functions that traditional structures are being asked to perform (by the people / by the government)? Are they willing and capable to perform them?

The people and the government expect traditional structures to: (a) serve as more effective channels of two-way communication between the government and the people; (b) improve public participation in the process of consultation for public policies and development planning; (c) display more harmonious relationship with other local government organizations such as land boards, district councils and district administration; and (d) improve administration of justice by customary courts. The traditional structures have the willingness to perform these new functions but their existing capacity in these respects is limited and needs to be strengthened. Improved conditions of service, better facilities in terms of transport, offices, office equipment, housing for staff, and over and above all training for different categories of traditional leaders could strengthen their capacities for effective performance of the new functions and responsibilities.

- vii.** What are the new skills that traditional structures need to master in order to maintain their present relevance and roles?

In order that the traditional structures maintain their relevance and perform their role more effectively, training programs are needed for different categories of chiefs from highest to the lowest levels in the field of law (particularly customary law), public administration, public relations, development policies and development administration. Specific and priority attention is needed for (i) strengthening the customary courts; (ii) strengthening the contribution of traditional leaders in the operation of the Kgotla; and (iii) strengthening their equipment as members of House of Chiefs.

Some of the traditional leaders like Village Headmen, Sub-Chiefs, Chief Representatives, and even Chiefs are not well educated and are at times faced with limitations in the understanding of the laws of Botswana and the Penal Code that they follow. They have limited understanding of their legal and traditional authority or relationship between customary law and common law or procedures. The administrative staff of the customary courts such as Court Clerks does not have adequate education or training. The local police in the tribal areas is also handicapped due to limited education and training. The entire staff of tribal structures requires training programs including seminars and workshops. These could be organized for four separate and distinct groups of court chairmen, tribal secretaries, court clerks and local police. The court chairmen in turn, could have workshops for different categories: paramount chiefs; sub-chiefs and chief's representatives; and village headmen.

The traditional leaders need knowledge, information and dynamism for giving effective leadership to Kgotla, which has to serve as a forum for people's participation and consultation in local level development planning and implementation. Workshops could be organized to strengthen their understanding of socio-political environment and new challenges being faced by them and the society. They need to give more dynamic

leadership in educating and articulating public opinion or in mobilizing public interest and support for development activities being undertaken at the local level. They have to demonstrate leadership in striking a healthy balance between tradition and modernity. They have to make an effective contribution in fighting HIV-Aids epidemic by educating the public.

As members of the House of Chiefs, the traditional leaders need to improve their knowledge and understanding about the expected role of the House and the nature of its relationship with the National Assembly, country's legal system, country's development policies and challenges faced for economic development and social change.

4. Traditional structures and local governance reform:

4.1. Legal framework:

i. Decentralization:

- Main characteristics of recent or upcoming legal reforms on decentralization:

The Presidential Commission on Local Government Structure (Venson Commission), which reported in 2001 recommended retention and strengthening of the existing local government structure, including the traditional structures. The Commission recommended that the District and Urban Councils, which were established by Parliamentary Acts be entrenched in the Constitution. It also recommended that, "tribal administration, as a local authority created by statute should receive its rightful share of resources".

- Integration / cooperation model for traditional structures:

Traditional structures are integral part of local government in Botswana as tribal administration is one of the four pillars of local government. The other three pillars are Councils, District Administration and Land Boards. As the country has a unitary form of government, local government is the second tier of government. There are no structures between the local and central government. The effectiveness of these structures requires cooperation and coordinated work.

ii. Representation: legal provisions dealing with the representation of traditional structures in the executive, legislative or judiciary branch at the local level:

Laws relating to traditional structures (Tribal Administration, Customary Courts, House of Chiefs) include: *Constitution of Botswana; Chieftainship Act; Customary Courts Act; Common Law and Customary Law Act; Local Police Act; Tribal Territories Act, etc.* Various Acts govern the elections and appointments to the traditional structures. There is no legislature at the local level. Paramount Chiefs are *ex-officio* members of District Councils in their area. There is no quota system of representation in the National Assembly. There is a House of Chiefs at the central government level, which consists of *ex-officio* members of eight tribes mentioned in the constitution; four *elected members*

from Chobe, North-East, Ghanzi and Kgalagadi Districts; and three *specially elected* members, elected by the *ex-officio* and elected members of the House. The composition of the House is undergoing change after the recommendations of the Balopi Commission submitted in 2000. The membership is being enlarged to be inclusive of more tribes. *Customary Court Act* lays down the composition, powers and functions of customary court, as outlined above. The Customary Court of Appeal was organized a few years back. The number of customary courts has increased during the past years. The authority of customary courts was enhanced with the amendments to the *Stocktheft Act*. The conditions of service of staff in the entire tribal administration need attention and there is urgent need for strengthening training of court chairmen and court clerks.

- Participation of traditional leaders in political parties:

Traditional leaders are not allowed to take part in party politics. These are supposed to be politically neutral and non-aligned to political parties like other civil servants. They can not contest elections unless they resign. They do not speak on behalf of any political party. Kgotla presided over by them is a politically neutral forum and politicians (unless these are ministers or MPs) belonging to different political parties are not allowed to address that forum as party leaders. Botswana is different from South Africa in this respect and would like to continue to adhere to the principle of political neutrality of its traditional leaders.

iii. Consultation: legal provisions for the participation of traditional structures and their representatives in consultation mechanisms with local governments

Traditional structures are taken as one of the four pillars of local government in Botswana (other three being district council, land board and district administration). Traditional leaders are expected to cooperate closely with other local government organizations in the process of formulation and implementation of development plans at the local level. The role of the traditional forum Kgotla remains significant for consultation with the people in that process. Being a part of the district planning machinery, the traditional leaders are also represented on District Development Committees, which serves as a forum for communication and consultation among various organs of local government and administration. The value given to traditional leaders' views depends upon the personality of the traditional leader and the matter under consideration. The Presidential Commission on Local Government Structure (2001) has supported these structures and has advocated more effective participation of traditional leaders.

iv. Customary law (land titles, marriage, conflict management, natural resources allocation, etc.) and national legislation:

Customary law and statutory law co-exist in Botswana. The customary courts enforce customary law as well as statutory law as they follow the penal code for criminal cases. In many cases the people have a choice to seek redress in customary or magistrate's

courts. Customary courts do not allow legal representation and magistrates courts do not give corporal punishment. (The government has recently authorized the magistrates' courts also to administer corporal punishment subject to some conditions and limitations). The chiefs held the tribal land in trust on behalf of the tribe and allocated it to the tribesmen for their use. This authority is now exercised by the Land Boards who hold the tribal land in trust and can allocate it to any citizen of Botswana. The land classified as state land is allocated by the relevant central government organization. The traditional leaders solemnize customary marriages following the customary law and the civil servants perform marriages under the statutory law. Magistrates' courts as well as customary courts handle civil and criminal cases and resolve conflicts. The customary courts derive their authority from customary law but also from various statutes as outlined above. Contemporary government organizations such as Land Boards, which derive their authority from national statutes, are also guided by customary law in their work. The country has not witnessed serious conflicts between customary law and statutory law, although there can sometimes be conflicts between the customary laws of different tribes. The judges of the customary court of appeal have been instrumental in interpreting and pronouncing on customary laws of different tribes and harmonizing them. Codification of customary law and its harmonization with national legislation remain a big challenge.

4.2. Political Process:

i Political process which led to the proposed decentralization reform:

Botswana adopted a political framework of multiparty democracy after independence and organized it on the principle of universal adult franchise. The country decided to follow this principle at the local level as well and replaced the tribal councils with democratically elected district councils. The tribal structures were retained to perform other specified functions. These were apparently retained due to their continuing respect in the rural population and to ensure that they do not join opposition and pose a serious challenge to the hold of politicians in power. The changed status and authority of traditional structures was a task of intricate political engineering.

ii Relationship between ruling party(ies) and traditional structures: shared interests or competing? Traditional leaders and electoral campaigning:

Relationship between the ruling party and traditional structures reflects competing as well as shared interests. Soon after independence, the traditional structures witnessed a steep decline in their powers, functions and status (engineered by the ruling party through a number of Acts). The traditional structures were retained but the traditional leaders were subordinated to the minister of local government. When they lost many of their powers to the newly created elected district councils and land boards, the traditional leaders felt aggrieved and their relationship with the ruling party politicians was far from cordial. One of the paramount chiefs, Gaseitsiwe of the Bangwaketse tribe resigned his chieftainship, joined politics and became a prominent leader of an opposition party (Botswana National Front). During the mid-1990s the then Minister of Local

Government, Lands and Housing suspended a prominent chief of Bangwaketse tribe on the ground of lack of co-operation with the minister. In 2004, the members of the House of Chiefs felt aggrieved when the government decided to move them from the houses occupied by them in Gaborone to make way for the new members of the National Assembly. Although there has been antagonism of this nature, the ruling party has taken care that it does not go so far as to make the traditional leaders join the forces of opposition. Besides, the government and the ruling party have also given positive support to the traditional structures. For instance, the government has upgraded the posts of Kgosi and tribal secretaries, has agreed to improve the conditions of service of tribal administration, and has accepted the recommendation of the Presidential (Venson) Commission that “the institution of Tribal Administration should be retained and it be allowed more funding, competent human resources and facilities to enhance its status”.

The traditional leaders are required to be politically neutral like all other public servants. They cannot contest elections unless they resign, and they are not allowed to take part in electoral campaigning on behalf of any political party.

iii Influence of civil society on present or forthcoming decentralization reform:

Decentralization reforms in Botswana originate not from below but from above. These are introduced by the central government, realizing the political, economic and administrative significance of decentralization. The influence of civil society or local government organizations is minimal.

4.3. Global factors:

i. Influence of foreign institutions on present or upcoming decentralization process and the roles of traditional structures played in it:

Democracy and decentralization are being accepted as essential characteristics of good governance globally. International organizations and donor agencies have advocated decentralization as an essential form of political and administrative reform. Political and administrative decentralization has been an important component of Structural Adjustment Programs advocated by donor agencies. Although Botswana did not have to be subjected to the Structural Adjustment Programs, decentralization policies of the government have received impetus from noticeable global trends. Traditional structures have undertaken consultation with the people and their participation in governance traditionally. These structures have therefore served as instruments of decentralization and have functioned as integral part of decentralized organizations of local government in Botswana.

ii Decentralization and country-wide economic reform program: link / rationale/ risks:

Decentralization is also an essential ingredient of countrywide economic reforms for improved management of economy. Decentralization in the formulation and

implementation of development plans brings these closer to the felt needs, problems, expectations and priorities of people. Decentralization promotes two-way communication between the government and the people for sound economic management. Botswana has organized district level planning machinery for these reasons. It promotes consultation with people and their participation in planning and economic management. The traditional structures facilitate communication and participation of people through forums like Kgotla. Although decentralization and related economic reforms have these advantages, there is a need to maintain a reasonable balance between centralization and decentralization for harmonizing national and local interests. Excessive decentralization with limited administrative capacity of local government organizations could be counterproductive and could result in inefficiency, mismanagement and even corruption.

- iii Decentralization and regional political stability: how would integration of traditional structures in local government have an effect on regional ethnic tensions, if any?

Integration of traditional structures in local government has not created ethnic tensions in Botswana. On the contrary, their integration has been a factor in political stability and coordinated effort in local level development management.

5. Conclusions :

5.1. Prospects and main challenges for transformation of the internal structures, the functions and roles of traditional administration in local governance and development:

The traditional structures of chieftainship are likely to maintain their existence in Botswana. Chieftainship is one of the oldest institutions of traditional leadership, which has enjoyed the glory, powers and prestige of the pre-colonial times, has survived through the vicissitudes of the colonial period, and has reconciled to the new political system of the post-independence period. Although its powers, functions and authority have declined over a period of time, chieftainship has not become a totally insignificant institution in society. The tribesmen in the rural areas continue to have respect for their traditional leaders. The chiefs could and do use this respect for educating, guiding, informing, and advising the people in their areas on matters contributing to tribal welfare and development. The chiefs serve their community in maintaining the best customs and traditions, arranging tribal ceremonies, serving as spokesmen of their tribe on issues of customary nature, presiding over Kgotla meetings (where matters of interest to the community are discussed), helping in the prevention of offences within their tribal boundaries, and encouraging rural development by cooperating with other governmental and non-governmental organizations. The traditional forum of Kgotla facilitates the consultation process on formulation and implementation of public policies, district level plans and projects for rural development. The traditional leaders could be instrumental in initiating social change by striking a healthy balance between tradition and modernity. By remaining informed, they could disseminate information about and give support to the activities

of organizations like D.D.Cs, V.D.Cs and NGOs. The customary courts, which handle 80 to 90 percent of criminal and civil cases of the country, are popular with the people in rural areas. The traditional structures have a future due to the appreciation of this role by the people and the government.

Although the traditional structures have been integrated in to the contemporary public administration machinery, their satisfactory performance will depend upon the extent to which they are able to meet successfully the challenges they are facing. Traditional allegiance to tribal structures is coming under stress as the people from different rural areas are migrating to urban areas where people residing belong to different tribes. The educated youth do not display the same degree of respect for these structures as their parents did in the past. The traditional leaders remain apprehensive of elected politicians, who have curtailed their authority, powers and functions since independence; although the politicians do not appear to be intending to reduce the authority of traditional leaders further, as long as the traditional leaders do not pose a challenge to the political leaders.

Notwithstanding the above challenges, the tribal structures face a number of other challenges such as: required leadership qualities and development orientation of traditional leaders to lead Kgotla; limited legal knowledge and training of chairmen and court clerks of customary courts; unsatisfactory conditions of service of tribal administration staff and local police; and lack of cordiality of their relations with other local governance structures such as land boards, district councils and District Commissioner's office.

5.2. Lessons learned for external support to changes of traditional structures and their relationship with local governments:

If there are any lessons to be learned from the functioning of traditional structures since independence, these should be pertaining to the administration of customary courts; the administrative machinery serving the tribal administration; the House of Chiefs; and the relations between traditional leaders and elected politicians.

Although customary courts are popular in the country and handle a large number of cases, the quality of justice imparted by these courts leaves much to be desired. As these courts enforce the Penal Code and other laws of Botswana, their proper understanding by the traditional leaders is of paramount importance. The situation on the ground is that the traditional leaders do not have legal training and adequate understanding of the penal code and the laws of Botswana and the authority given to them by these laws. The amended *Stock Theft Act* has enhanced the powers of the customary courts considerably (authority to give mandatory sentence of imprisonment up to five years upwards) and therefore adequate legal knowledge and training of traditional leaders (customary courts chairmen as well as court clerks and local police force) assumes increased significance. The Customary Court of Appeal is overstretched and overburdened due to a small number of judges and its small administrative machinery. Qualifications for the appointment of judges, their

appointing authority, and their appraisal system have to be clearly stipulated (also for the Presidents of Urban Courts).

The conditions of service of tribal administration staff and provisions for their recruitment, promotions, appraisal, discipline, postings, transfers, etc., need to be improved to raise their morale. The proposed integration of tribal administration staff in to Local Government Service Management and of local police in to the national police needs to be speeded up.

The establishment of the House of Chiefs by the Constitution of Botswana was a significant mark of respect for traditional leaders. This House has served as a forum at the national level where the traditional leaders articulate their views on matters of their interest. The role performed by this House has been somewhat limited and it has not made any significant impact on the public policies or legislation adopted by the National Assembly. Official reports of the meetings of the House reveal that there has been an improvement in the quality of debates in the House and the nature of questions and motions tabled. The cordiality between the House and the cabinet ministers has also improved. However this House needs to focus its interest on matters related to culture, chieftainship, and tribal matters instead of matters that can be better attended to by the National Assembly. The members of this House could take more active interest on matters related to spread, prevention, cure and impact of HIV-AIDS. An active interest of the members of the House and their pronouncements with regard to some undesirable customs and harmful social behavior (such as excessive drinking) is a matter of some satisfaction.

To address the discomfort of the people of Botswana that the composition of the House did not accord equal treatment to all the tribes of the country, the President of Botswana appointed a Commission in 2000 (known as Balopi Commission) to address this question. Following the recommendations of this commission, the government has decided to change and enlarge the composition of the House. The title 'kgosi' is to replace 'chief' and the House of Chiefs given a new name: 'Ntlo ya Dikgosi'. The support of the government for the institution was expressed by the President Festus Mogae: "As the custodians of our culture, the chiefs have a role in ensuring that those positive aspects that have guided our destiny before can endure so that we too can pass a portion of our identity to humanity" (*Botswana Guardian*, 31 Jan 2001).

The lesson for the relationship between the traditional leaders and elected leaders is that they must treat each other with the respect they deserve. The traditional leaders appear to have reconciled to their reduced status and authority but they would like to be treated with respect and dignity by elected politicians and public servants even when these are the bosses of traditional leaders. The traditional leaders on the other hand have to appreciate their (subordinate) position in the integrated public administration machinery and have to relate to the elected politicians functioning as ministers accordingly.

Relations of traditional structures with the other local government structures (District Councils, Land Boards and District Administration) have to be based on mutual respect, close communication and partnership. Democratically constituted and elected District Councils have grown out of the traditional structures as it was tribal administration which was performing limited local government functions in Botswana before independence. The antagonism between the two institutions, witnessed during the early years of independence is a thing of the past now and the present relationship does not display serious conflicts, however, the relationship between the two institutions has to be based on a positive, forward looking and cooperative team spirit for rural development administration. Chiefs are *ex officio* members of District Councils in the areas of their jurisdiction except for the districts of Kgalagadi, Ghanzi, Chobe and North East districts. The Presidential Commission on Local Government Structure of 2001 recommended that the chiefs of these districts should also be *ex-officio* members of district councils in their districts.

Land Boards, which were established as statutory bodies in Botswana in 1970, took away the exclusive authority of chiefs for allocation of tribal land for residential, commercial, agricultural, industrial or general development purposes. The Land Boards in the initial years of their creation were faced with the problem of lack of cooperation of traditional leaders, as many of these were frustrated at the loss of their authority. The traditional leaders have reconciled to the changed situation although they continue to complain about lack of consultation with them. The Presidential Commission on Local Government Structure (Venson Commission) emphasized the need for close links between land boards and tribal administration. This commission also recommended that “Land Board chairmen should address Kgotla meetings, at least twice a year to brief the community on the procedures and operations of land Boards”. Submissions were made to the Venson Commission that the Land Boards should be abolished and their functions should be transferred to Tribal Administration. It was submitted to this commission that “during the time the land matters were administered by Dikgosi, there were little or no conflicts on land allocations, there were minimal delays in land allocation, there was proper consultation between the community and tribal administration and land use matters and land issues were dealt with transparently and with utmost sense of maturity” (p.77). The Venson Commission considered these views and concluded that, “Land Boards are still appropriate institutions to manage and deal with land matters. Land, a valuable and scarce resource, requires technical competency of the highest order in its management. Secondly, land administration requires a multi-skilled team of technicians and land use specialists. It is therefore doubtful that the institution of Tribal Administration could handle land management issues of the present day Botswana. To this end, it is the considered view of the Commission that what is required is to improve the operational efficiency of Land Boards and establish formal links with Tribal Administration”. (p. 77).

District Commissioner’s office plays a central role in district level development planning and coordination of rural development activities. The District Commissioner is the chairman of the District Development Committee. Chiefs participate in this

forum as equal partners along with district council, land board and district level officers of different ministries. District level rural development requires active participation and cooperation of traditional leaders who can help in articulating the felt needs of local population and get their cooperation in the implementation of development programs. Cooperation between the traditional leaders and District Commissioners assumes significance in this respect. The relationship between the District Commissioner and the traditional leaders has not always been cordial. Conflicts have surfaced from time to time. Some chiefs have complained for not being treated with proper respect and dignity by the District Commissioners. In some cases, personality factor has influenced their relationship. Different individuals with different personalities, approach, style, and attitude have developed different kind of relationship. If traditional leaders are treated with dignity and respect by public servants, their relationship could be cordial. In the development of team spirit, the District Commissioner has a special role. The DC has to be gentle, respectful, considerate and cooperative with the traditional leaders. Both have to be sensitive to public expectations and aspirations. Both have to try to develop partnership between the people and the government. Both have to be sensitive to the political environment, cultural values, and social norms. Both have to try to encourage people's participation in the formulation and implementation of district level development plans, which have so far remained a 'top-down' exercise undertaken by the bureaucrats. The District Commissioners are expected to display increased commitment to the task of rural development and greater sensitivity to the plight of poor masses. They need greater support from the traditional leaders in this respect.

5.3. Contributions and limitations of traditional administration to a more responsive, accountable and inclusive local governance and local development:

Good governance requires that the process of local governance and development is responsive, accountable and inclusive. The democratic government of Botswana has advocated and promoted these characteristics in the organization and functioning of local government structures. Decentralized district level development planning process followed by the government is meant to encourage people's participation and make the local development responsive to the felt needs, problems and expectations of the people. Traditional structures are expected to participate actively in the coordinated working of local governance structures. Their effectiveness in giving responsive, accountable and inclusive governance however is limited, due to inadequate development orientation, lack of teamwork among the local governance structures, and limited people's participation. Although the traditional structures are becoming more open and inclusive gradually, these have not been inclusive of women, youth and the poor in the past. With the spread of education and enlightened public opinion, the local governance structures, including traditional structures, are likely to be more responsive, accountable and inclusive.

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