



TRADITIONAL LEADERSHIP AND THE DYNAMICS OF PUBLIC PARTICIPATION: IMPLICATIONS FOR RURAL DEVELOPMENT

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'The basis of democracy stems from all citizens having a potential influence in the political process and thus, the centrality of power and authoritarian nature of most traditional leaderships in South Africa, casts doubt on whether the citizens do, in fact have a political voice.' (Campbell et al 2007).



PHOTO: STRING COMMUNICATIONS

This paper argues that that the current efforts aimed at rural development will be constrained by three critical factors. Firstly, the power struggle between democratically constituted structures and traditional authority over roles in the processes and activities that emanate from the rural development programme. Secondly, the manner in which the state responds to the emergence of alternative platforms for expression or organisation. These formations are not only critical of both councillors and traditional leaders but also articulate the interests of marginalised sectors of 'traditional communities'.

Thirdly, the position held by traditional authorities within a democratic system where they are entitled to salaries, as public officer-bearers, but are unwilling to be subject to accountability requirements similar to those that apply to other public servants in general.

Arguably, without the active participation of rural people in the political processes that aim to plan, implement and monitor rural development, such a programme will not be sustainable. The main issue the paper raises is that without strong, democratic organisations of the rural and marginalised, able to

contest political spaces and articulate the interests of the historically excluded, participation will remain weak and devoid of the desired impact. Through the voices, actions and vision of the existing popular formations in four selected districts, the discussion draws lessons and recommends alternative approaches to the challenges of exclusion facing the rural poor. The experiences of Ilizwi LamaFama, Mopani Farmers Union, Rural People's Movement and Siyazakha Land and Development Forum provide evidence of not only how weak rural municipalities are in the face of draconian tendencies of the traditional authorities but also what perceptions of public participation are held by the existing structures of governance.

Our conclusions are based on the debates that are underway within the popular formations. As organisations who articulate the interests of land-users, a group that is often on a collision course with the traditional authorities due to the control they have over land administration, they are strategically located to provide on the ground experience and sentiments regarding the issue of traditional leadership and the impediments of public participation. The discussions in this paper attempt to interrogate the current trends in public participation and weigh these against the aspirations of the rural poor in communal areas, as articulated in the policy submissions of the rural organisations mentioned above.

METHODOLOGY

The information used in this paper was sourced through a desk-top study that covered policies on rural governance. This included critical texts on the subject of traditional authorities and public participation. Submissions from Ilizwi Lamafama, Rural People's Movement and Siyazakha Land and Development Forum to Parliament's Portfolio

Committee on Rural Development and Land Reform during the public hearings on the repeal of Black Authorities Act also provided valuable information.

Reports from meetings of the above-mentioned organisations were also used as was the report of the TCOE 25th Anniversary Conference (TCOE 2009), which included discussions on traditional leadership. Interviews with leaders of grassroots organisations also contributed to the body of knowledge consulted. Lastly, observations of the debates taking place in the platforms of the rural organisations are also used as evidence of the views these rural collectives have on the issue of participation and traditional authority.

CONTEXT

Traditional authorities have to be viewed in the historical context of their evolution through the pre-colonial, colonial, apartheid and post-apartheid years. Historical evidence suggests that the chiefs who resisted the expansion of the colonial authority into lands occupied by natives were dealt with ruthlessly. The racist governments of the past enacted a series of laws that not only distorted the institution but also used it to advance a discriminatory agenda. The institution was used by the apartheid government to create reserves for tribal units to govern themselves, within apartheid law. In the creation of Transkei, Khonou (2009) points out:

'The architects of the independence of Transkei sought to justify their political legitimacy by producing a mixture of both democratic and tribal policies . . . The Status of Transkei Act endorsed the status, roles and functions of traditional leaders in the Legislative Assembly of the Transkei as constituted in terms of the Transkei Constitution Act . . . These traditional leaders were given seats in the legislature to give the homeland system a flavour of democratic mandate.' (Khonou 2009: 90-91)

Similar reserves were created in Bophuthatswana, Venda and Ciskei. This, however, does not suggest that all traditional leaders collaborated with apartheid divide and rule. The advent of democracy in South Africa brought to the fore the question of the legitimacy of the institution of traditional leadership and their status alongside democratic structures. Ntsebeza (2006) argues that these structures cannot complement one another, as the ANC strives to make it so, because they are fundamentally contradictory. He further argues that the co-existence of traditional authorities alongside democratic structures is reflective of the ambiguity of the position of the ANC with regard to rural governance (Ntsebeza 2006: 15-16 and 258-262). The enactment of the Traditional Leadership and Governance Framework Act 41 of 2003 (TLGFA) and the Communal Land Rights Act of 2004, particularly the circumstances around which the latter was made into law, demonstrate that democratic governance in communal areas is far from being achieved. Currently, the Traditional Courts Bill is also under discussion, with serious opposition from civil society and the organisations that represent communities who will be affected by this proposed law.

The Congress of Traditional Leaders of South Africa (Contralesa) has also been vocal about its policy positions. Contralesa has strongly opposed the introduction of democratic municipalities in areas deemed as traditional communities by the provisions of the TLGFA. Moreover, its president, Chief Pathekile Holomisa has lambasted the colonial practice of distorting the source of their legitimacy, namely customary law (Holomisa 2007a). Contralesa has called for more powers to be accorded to the institution of traditional leadership, with particular emphasis on the need to transfer local government powers to chiefs. Under the current legislation, chiefs wield considerable power with regard to land

administration and this has been a bone of contention not only with elected municipal councils but with communities as well. One of the interviewees in Ntsebeza's research, Mr Jama highlights the fact that residents of communal areas rely largely on traditional leaders to access land. Our research suggests that many organisations of residents of communal areas are strongly opposed to the concentration of land administration powers in this institution.

Opposition to the legitimisation of traditional leadership is based, among other things, on the experience these communities have had under the rule of chiefs for decades. This experience is reflected in the testimonies made to Parliament, which are littered with cases of abuse of power, intimidation, illegal tax collection and harassment by the traditional authorities. Rural organisations have been challenging both traditional authorities and municipalities for the right to participate in the decision-making processes, a right enshrined in the Constitution. The experiences reflected in their submissions clearly indicate that the current legislative framework locates them more as subjects of traditional authorities rather than citizens of a democratic country.²

FROM CEREMONIAL TO MEANINGFUL: NOTIONS OF PUBLIC PARTICIPATION

The second president of the democratic South Africa, Thabo Mbeki introduced an imbizo model where high-ranking government officials directly interact with communities to listen to development needs, service delivery challenges and provide answers to questions posed. This proved to be effective initially, as communities felt that they would have the ears of their leaders but again this initiative appears to have not yielded the desired results. Communities appear

to have noted the limitations of the *imbizos* and realise that this level of participation can be merely ceremonial.³ This sentiment has been echoed by organisations in the Eastern Cape and point to the fact that rural people expect tangible results from platforms where the development challenges are discussed.

National government's policy framework on public participation provides a series of useful guidelines that aim to deepen democracy.⁴ These guidelines prescribe clear interventions for democratically constituted organs of governance, but falls short of providing the same level of clarity for communities under traditional authorities. The official definition of public participation as set out by national government is:

'an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making. It is further defined as a democratic process of engaging people in deciding, planning, and playing an active part in the development and operation of services that affect their lives' (DPLG 2005, p1).

The right of citizens to participate in issues of governance is enshrined in the constitution and this is supported by a range of legislations that give weight to the provisions of the Constitution. For example, the White Paper on Local Government outlines the aims of public participation as follows:

- To ensure political leaders remain accountable and work within their mandate;
- To allow citizens (as individuals or interest groups) to have continuous input into local politics;
- To allow consumers to have input on the way services are delivered;

- To afford organised civil society the opportunity to enter into partnerships and contracts with local government in order to mobilise additional resources (DPLG 1998).

The Local Government: Municipal Structures Act of 1998 and the Local Government: Municipal Systems Act of 2000 give more detail to the constitutional commitment to public participation. The provisions are not restricted to municipalities but bind all public offices, including the institution of traditional leadership in principle. However, it has been the experience of rural communities in particular that what is on paper does not necessarily mean that these are automatically realisable rights. On the contrary, public officials are repeatedly reported to have violated the right of communities to participate in decision-making. Ilizwi Lamafama told Parliament the following:

*'(the) March Traditional Council election was fraudulent in the sense that communities were not consulted and we tried to pursue the MEC concerned about our dissatisfaction but were disappointed to hear from him that he will be judged as a "stupid MEC" by the President if he can put an election on hold.'*⁵

The submissions made by Siyazakha Land and Development Forum to Parliament in 2010 also reflect similar experiences.

Decisions that affect the prospects of development in communal areas take place in a variety of platforms. Firstly, there are official platforms where government discusses administrative issues of service delivery, like the council meetings where members of the public have a right to observe. In council chambers, members of the public are allowed to sit in the gallery and

witness the debates but cannot intervene in the discussions. Secondly, the traditional council also calls meetings where villagers are allowed to voice their views. Thirdly, there are public meetings that councillors are bound by law to hold at least four times a year to discuss local development affairs with the residents of a ward. These meetings are open to all members of the community, who are entitled to raise their concerns or provide recommendations. There are also meetings that community structures hold on their own to plan their participation and submissions to official platforms or create a platform for addressing development or social challenges. At these platforms they can also invite relevant public officials to provide clarity on questions of significance to the residents. Therefore, there is actually no shortage of platforms or forums where communities can either observe or take an active part in the discussions that would influence the decisions taken. Therefore, the main challenge seems to be about what happens within the existing structures and processes in terms of the inclusiveness of the participation and most importantly, what the outcome of such an engagement is.

The chairperson of Siyazakha, Douglas Ntamo, had the following to say regarding the level of participation in existing platforms:

*'People are not consistently interested in meetings. They will attend in numbers when there is something to be gained from meetings, like information on a project that will create job opportunities or help them ease the pressure of the chronic poverty they face daily. Even when the headman calls a meeting, for people to attend he must have news of something that would benefit people materially. Meetings like IDP are often well-attended because people get the chance to voice their development needs, which are often tied to the creation of jobs or provision of service they badly need.'*⁶

Communities have asserted their opposition to participation in flawed processes. For instance, the Rural Peoples Movement (RPM), refused to participate in the election of traditional councils. The RPM raised awareness of the residents about the problematic nature of the process but also mobilised them to boycott the election and to pursue the matter further by engaging structures that can provide solutions to challenges. This intervention indicates that for this organisation the notion of participation goes beyond consultation or being present in a forum that takes particular decisions. It is rather an ongoing process of democratising the interaction between role-players in a development process.

DUALITY OF LOCAL GOVERNANCE

The assertion by traditional leaders, as articulated by Contralesa that the current policy on rural governance limits the powers they should be having according to customary law is based on the notion that traditional authorities are true representatives of the interests of residents of communal areas. In the current democratic dispensation municipalities are mandated by law to manage the development processes by providing basic services and improving the conditions of rural people which are characterised by poverty, lack of infrastructure and general marginalisation. The resultant tensions between the two sets of leadership only work to defer the delivery of services and recognition of the right of communities to participate in the development of their areas.

In the case of traditional leadership, there exists an assumption that traditional leaders possess knowledge of the needs of the communities without necessarily having to consult them. This gives rise to the abuse of power and lack of accountability. In

extreme cases, it breeds a culture of harassment directed at individuals and groups that hold dissenting views and may amount to the perversion of policy and a blatant disregard for common law, as the case involving King Buyelekhaya Dalindyebo illustrates. King Dalindyebo is reported to have terrorised his subjects for not complying with a judgment he had handed down to subjects over alleged crimes (Mnisi 2010). Among the victims was an elderly man who was fined 15 cows for what his son, who had been lynched by the community, had allegedly done. The Rural Peoples' Movement also reported a case of corporal punishment meted out to a pregnant woman in full view of the public in the Dabi traditional court in Prodoe village⁷. The president of RPM herself reported that her life had been threatened by representatives of a traditional authority for raising awareness about traditional council elections.

This brings to the surface two issues; some traditional authorities have demonstrated, contrary to claims by Chief Holomisa, hostility towards women and elders. The case of Miriam Mateza, a farmer from Cala, attests to the mistreatment of women by traditional courts. In her testimony to Parliament, she told of how she was dispossessed of the land she owned because the court believed that no woman has a right to own land.⁸ In his presentation, Chief Holomisa disputed this assertion and claimed that in African culture no individual owns land.

'Land is owned collectively by the tribe and the administration of the institution of traditional leadership i.e. the traditional leaders and councillors . . . A married man is entitled to apply for a piece of land to provide necessities of the life of the family' (Holomisa 2007b).

In her testimony to Parliament, she told of how she was dispossessed of the land she owned because the court believed that no woman has a right to own land.⁸

The issue of land, a resource of vital importance to rural households, is highly contested in the debate on rural governance. Ilizwi Lamafama told Parliament that a villager who is not supportive of the traditional institutions is less likely to be allocated a piece of land. As Sindiso Mnisi notes writing in the Mail & Guardian, *'control over land forms the linchpin of traditional authority'*. Improved access to land, for residents of the communal areas and rural residents in general, is one of the reasons they participate in development processes, given the state of poverty that exists in the countryside. The power that traditional leadership has over the land provides them with a measure of control over the communities and thus limits prospects and spaces for meaningful participation where they can be held accountable by the villagers.

When villagers have a need to access land, due to the lack of clarity in policy, they find democratically elected structures ineffective and they rely on the chief to access land. The case of councillors in communal areas is loaded with challenges as they have to deal with traditional authorities who hold the view that councillors have been put in place by the government to substitute them.

IN PURSUIT OF A NEW MODEL: ALTERNATIVES FROM BELOW

It is possible for sustainable solutions to development and governance to be achieved if the broader sections of the population living in communal areas are rightfully viewed as citizens under a democratic constitution that recognises their role as key participants and not merely as subjects of

traditional authorities and passive recipients or consumers of services.

There are historical examples of communities that thrived under a traditional but fairly democratic system. For instance, in his research, Ntsebeza (2006) reports that as early as 1883 residents of Cala used to choose their own headman. Mr Ntamo attests to this as he recounts the tension that emerged when this practice was overlooked when a headman passed away and his successor was instituted without consultation with the community, as had been the case for over 100 years.⁹ The community of Xhalanga (Cala) had for over a century practiced the right to choose a traditional leader of their choice. They did so because a headman is an appointed member of the institution, unlike the chief whose assumption of leadership is hereditary. This model guaranteed them a right to participate, make inputs in the management of village affairs and remove a traditional leader if he failed to serve the community as agreed.

The experiences of RPM and Ilizwi Lamafama reflect a situation where relations are marked by hostility and exclusion. Claassens (2008) argues that the debate on the Traditional Courts Bill is based on a top-down interpretation of customary law, in which there is no participation by ordinary people. This view is echoed by Sindiso Mnisi who criticised government for consulting only traditional leaders on the bill and excluding ordinary people.¹⁰ Organisations such as Ilizwi and RPM need to be strengthened to more effectively contest for space to influence policy and decision-making at the local level. In general, rural movements feel that they are on their own and need to rely on themselves to fight for political space.

The case of Siyazakha is not entirely different from that of other organisations. This is signified by Douglas Ntamo who told parliamentarians, that '*Mayiphume ihagu namantshonthso ayo egadini*

azokwazi ukukhula amakhaphetshu am'¹¹. Researchers and affected communities appear to be in agreement over the critical need for a new political order in the communal areas.¹²

CONCLUSION

Three critical points emerge from the discussion above. Firstly, the present system, especially the traditional councils that assume the status of public officials have their salaries paid by the state. This virtually makes traditional authorities civil servants. Therefore they should answer for their decisions and activities in the same as other civil servants. This is necessitated by the experience that rural communities have under leaders who are not bound by democratic principles but they are given policy authority to administer land and justice in their villages. Secondly, policy has to clarify the position of women in communal areas. While rural women are entitled to the equality rights set out in the Bill of Rights, the experiences of women, as reflected in the testimonies to Parliament, show the continued practice of suppressing the rights of women in terms of land access and in terms of representation in the traditional court. A gender sensitive political culture should be the basis of policy and law-making. Lastly and most importantly, the organisations whose experiences are set out in this paper are active because they are organised. They are able to articulate their common interest, develop common positions and mount challenges for change because they work as a collective for the improved quality of life, not only for members that are active in their structures, but for the villages in which they live and work. Participation will therefore be meaningful and have impact if the communities in communal areas are organised.

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Interview

Douglas Ntamo, 10 October, 2010, Port Elizabeth.

ENDNOTES

¹ This paper was written by the Trust for Community Outreach and Education (TCOE) a rural development organisation that works in over 200 villages in the Eastern Cape, Western Cape and Limpopo. TCOE is a collective of six development organisations whose primary focus is to facilitate the building of rural organisations as platforms to unite small-scale farmers, landless collectives and artisanal fishers. These grassroots organisations, some of which are featured in this paper, are mobilising the rural poor to lobby for access to natural resources like the land and the sea. TCOE, as an umbrella body, oversees consolidating the growth of these organisations through capacity building, policy education and opening avenues for these structures to interact and build relationships with similar organisations in the country, in the region and in other parts of the world.

² Submissions to the public hearings on the Repeal of the Black Authorities Act held in Parliament on 21 July 2010.

³ From the minutes of a meeting of Mawubuye Land Rights Forum, a land rights organisation working in the Winelands and Overberg district, that took place in April 2007. In this meeting, the report on the visit of former President Mbeki to Swellendam report that the imbizo was like the president was passing through, as farmers’ concerns about lack of land reform in the Western Cape were not answered as the President had to leave for another engagement. This report was given by Henry Michaels, the forum’s chairperson.

RECOGNISING COMMUNITY VOICE AND DISSATISFACTION

⁴ Constitution of the Republic of South Africa 108 of 1996, White Paper on Local Government (1998), Local Government: Municipal Systems Act 32 of 2000, Draft Policy on Public Participation 2005)

⁵ Submission by Ilizwi Lamafama to Parliament for the public hearings on the Repeal of the Black Authorities Act, 21 July 2010.

⁶ Interview with Douglas Ntamo, Port Elizabeth, 1 October 2010 (translated from isiXhosa).

⁷ Submission of Rural Peoples Movement to the public hearings on the Repeal of Black Authorities Act on 21 July 2010

⁸ Submission of Miriam Mateza to public hearings on the Repeal of Black Authorities Act on 21 July 2010.

⁹ Interview with Mr. Douglas Ntamo, Port Elizabeth, 1 October 2010 (translated from isiXhosa)

¹⁰ Anninka Claassens, guest speaker at the 25th Anniversary TCOE conference in December 2008.

¹¹ Translation – “The pig must be driven out of the garden, together with its piglets, so that my cabbages can grow”.

¹² Ntsebeza (2006) and submissions by rural organisations like Ilizwi LamaFama, Rural People’s Movement and Siyazakha Land and Development Forum at the parliamentary hearings for the Repeal of Black Authorities Act.