

TRADITIONAL SYSTEMS OF GOVERNANCE AND THE MODERN STATE

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Your Majesty Kgosi Lemo T Molotlegi,
Your Excellency the Vice President of the Gambia
Your Excellency the President of Africa's Parliamentary Group
Your Excellency, the Executive Secretary of the Economic Commission for Africa,
Excellencies, Heads of Diplomatic Missions,
Honorable Ministers, and Honorable Members of Parliament,
Ladies and Gentlemen,

Please allow me to express my thanks and that of my delegation to the Government and People of Ethiopia, for the warm reception and hospitality extended to us since our arrival in this historic city of Addis Ababa. In the same vein, may I express my profound gratitude to you all, especially the Economic Commission for Africa, the African Union and the African Development Bank for the honour done me by inviting me to deliver the keynote address on the important theme of "Traditional Systems of Governance and the Modern State".

It is significant that the organizers of this Forum have put Traditional Systems of Governance on the Africa Development Agenda.

I would wish, even before I go into any detail, to request that the African Union considers giving African Traditional Leaders a seat in their regular meetings to discuss development issues on the continent. Reasons for this request will become more apparent in my presentation.

I am informed that the purpose of this plenary session is to examine traditional modes of governance in order to evaluate the aspects of indigenous leadership that are in accord with the basic tenets of modern democratic governance or can be adapted to contemporary political realities. In this respect, particular focus is to be placed on the special value and merits of traditional methods of conflict resolution.

TRADITIONAL FORMS OF GOVERNMENT IN AFRICA

Dear Delegates,

African societies, throughout the centuries, have been organized on the basis of a social contract whereby people come together to form a state or nation because they believe that, through their combined efforts, they will be more able to realize their common aspirations for peace and security, which are essential for their physical and spiritual welfare and progress, both as individuals and as a community. It is to achieve these objectives that the people agree collectively to surrender to a king or ruler the power to control their lives and to organize and regulate activities within their society. In the process, they have always had clear understandings and agreements regarding the ideas and principles that underlie their political systems and on the basis of which power and authority are to be exercised by the various elements of government.

By traditional systems, I refer to genuine traditional institutions, uncontaminated by colonial or post-independence modifications or distortions. Most observers of traditional African political systems

recognize two main forms, namely the non-centralized or fragmented traditional state and the centralized state.

Non-centralized traditional states: In these states, there was no sovereign in the Austinian sense. Techniques of social control revolved around what Meyer Fortes called the "dynamics of clanship". The normative scheme consisted of elaborate bodies of well-established rules of conduct, usually enforced by heads of fragmented segments, and in more serious or subversive cases, by spontaneous community action. Examples are the "Tallensi" of Northern Ghana, the Sukuma of Tanzania, the Nuer of Southern Sudan, the Ibos of Nigeria and the Kikuyu of Kenya. For the purposes of our discussion we should note two major features of this system:

1. The existence of well-defined norms despite the absence of a hierarchical system headed by a sovereign;
2. The direct and pronounced participation of people-members of clans, segments and so on in decision making assuring a visible democratic process.

Centralized States: The centralized states such as Asante and Mole - Dabgani of Ghana, Yorubaland of Nigeria, Zulus of South Africa, Barotse of Zambia and Baganda of Uganda had a more structured and sophisticated political system. These states were organized under well-entrenched, highly structured and sophisticated political authorities. They had all the elements of an Austinian state- a political sovereign backed by well-organized law enforcement agencies and habitually obeyed by the citizenry. Infraction of well-articulated legal norms attracted swift sanctions imposed by state officials. But the king, chief or the political sovereign, ruled with his council of elders and advisors in accordance with the law, and although autocracy was not unknown, the rule of law was a cardinal feature of their system of governance. The king was ultimately accountable and liable to deposition upon the violation of norms considered subversive of the entire political system or particularly heinous.

In many cases the political structures were complemented by hierarchy of courts presided over by the king, the head chief or the village chief.

The concept of law in these states was, in substance, hardly distinguishable from that of a modern state.

In most of these states, there was provision for participation in decision-making by groups of the citizenry either indirectly through the heads of their clans' lineages or families; or more directly through various types of organizations like the Asafo Companies of the Fantes in Ghana.

Eligibility for installation as king or chief was limited to certain royal families but among many states of Ghana the institution of king-makers was not unlike the Electoral College in some other countries. The Queen mother played a critical role as the custodian of the "royal register" and the person who pronounced on the eligibility of conditions for chiefly office.

MULTIPLICITY OF SYSTEMS

It is evident from the theme of this Session and my remarks that there are various systems of traditional governance in Africa. Just as there have been and remain different forms and orientations of western democracy, so there were different forms and institutions of government among the various ethnic groups and societies in different parts of Africa. But, in spite of the unavoidable variations, the different forms of African traditional governance had a number of important common elements and features:

Invariably, they almost always involve the devolution of power by ascription. A person inherits governmental authority or position mainly by virtue of membership of a particular family or clan. However, in many cases, the choice of the political leader is based not solely on the circumstance of

birth, but involves other criteria, such as the character or other personal qualities. Where this is the case, there usually is an election between several eligible persons from the same family or clan. The people who exercised governmental authority were referred to by various names in different parts of Africa, such as kings, chiefs, elders, leopard skin chiefs, emirs and so on. In all cases, they ruled or governed their societies with the assistance of lower-rank rulers, as well as a large number and levels of advisers who for the most part also occupied their positions by virtue of their family or clan origins and status.

It is worth emphasizing that this mechanism ensures that the king or chief does not rule arbitrarily. Although the king or chief has the final word, he is bound to consult very regularly, and decisions are reached by consensus without formal votes. In this connection, although a chief is elected and installed for life, his continued stay in office is subject to good conduct.

A chief who breaks his oath of office to seek the welfare of the people and progress of the nation is removable according to the rules and procedures laid down and transmitted from generation to generation.

It is not my intention to glorify our traditional systems. But I am concerned to point out that democracy was not alien to all traditional African systems, and the rule of law, which provided checks and balances in the political system and imposed restraints on authoritarian rule, was a prominent feature of most traditional African systems.

However, this presentation is not about our traditional systems in their pristine purity before the colonial and post-independence impact. It is very much about the role of these systems under modern political and constitutional dispensations in Africa.

THE FUNCTIONS OF THE TRADITIONAL RULER

Dear Brothers and Sisters,

Before the advent of colonial rule, the traditional leader's role encompassed numerous functions, which revolved around the cardinal theme of guiding, protecting, defending and providing for the needs of the society he served. He was the intermediate between the departed ancestors, the living and the yet unborn. These holistic approaches involved religious, military, legislative, executive, judicial, social and cultural features.

Leadership was however predicated on a set of well-articulated norms and mechanisms. The multifarious functions were exercised with specific functionaries whose role was hallowed by ancient custom. Sometimes these were elders or councilors, or communal groups or judicial institutions or state or drummers. Each entity performed its assigned role in accordance with customary law.

The military role of the traditional leader was accentuated by the frequent incidence of inter-ethnic wars or the normal process of acquiring territory for statehood. But in this function, the welfare of the people was paramount. Any chief who ignored this forfeited the trust of his people and was liable to deposition.

TRADITIONAL AUTHORITY IN COLONIAL AND POST COLONIAL ERAS

The colonial and post-independence eras had a profound impact on traditional institutions, in particular chieftaincy. The colonial system ostensibly enhanced chieftaincy through the system of indirect rule particularly in Nigeria and Ghana. But the perception that chiefs and kings ultimately derived their power from the colonial power eventually undermined their power. In some African countries the colonial authorities appointed chiefs directly thereby underscoring the uncomfortable fact that they were colonial creations, which were ultimately abolished with the demise of colonial rule.

As far as post-colonial African regimes were concerned, it is hardly contestable that they saw traditional authorities as a dangerous bastion of rival political power and largely succeeded in dismantling or attenuating their authority. Examples exist in Liberia and other African states. The reality is that in most African states our traditional systems have been divested of their formal executive, economic and judicial powers except in narrowly defined areas.

Even more critical, they have been denied the requisite resources for effective functioning, although the institution of chieftaincy has been guaranteed in some constitutions such as Ghana's.

But, in spite of all these moves, it is paradoxical that in a number of African countries, chieftaincy is attracting academics, civil servants, business leaders and teachers. In Nigeria, Ghana, Uganda, Lesotho, and Swaziland and in South Africa, the traditional leadership position is becoming more competitive than probably ever before. It would be illuminating to find out why the situation is changing so fast.

TRADITIONAL AUTHORITY TODAY

Admittedly, the chief of today cannot act in the way his predecessors behaved. He is neither the military leader nor the legislator that he once was. Except in very limited areas, he has no judicial functions or executive powers of any significance. But this does not mean that the chief has no meaningful role in the modern era.

On the contrary, he has a vital role to play not just in his own domain, but also at the national level. This fact is recognized in the governmental system of Ghana, where the institution of chieftaincy is given an entrenched status in the 1992 Constitution.

Among other duties, chiefs are expected to provide advice to the central government and to participate in the administration of regions and districts. As symbols of unity in Ghanaian society, chiefs are constitutionally barred from active party politics.

Apart from these constitutional functions, chiefs have the moral obligation to contribute to the lives of their individual citizens in particular, and to the nationals of their country. These days, a chief is expected to lead his people in organizing self-help activities and projects, and take the initiative in establishing institutions and programmes to improve the welfare of his people in areas such as health, educational, trade and economic or social development. These institutions and programmes are not intended to replace those that must be provided by the central and regional government, but rather to supplement them, especially in these days when the demands of the people are such that it is unrealistic to expect that they can all be met from central government resources. The chiefs can and do play a vital role in development, which at once enhances democracy and sustains good governance.

At a recent international conference on chieftaincy in Africa, held in Niger, there were numerous reports from African countries such as Nigeria and South Africa as well as Ghana about the developmental roles of chiefs, mobilizing their people for the execution of development projects, sensitizing them to health hazards, promoting education, preaching discipline, encouraging various economic enterprises, inspiring respect for the law and urging the people to participate in the electoral process. Most of these efforts are done without formal recognition or financial support from Government. Modern African states have not all succeeded in establishing viable insurance schemes, comprehensive health and educational systems, facilities for counseling the youth or role models in all fields of endeavor.

The modern chief, stripped of political and executive power and formal financial support, has to address these basic needs for his people using his ingenuity, diplomacy, power of motivation and sometimes his own personal resources.

Chiefs have been most active in dispute resolution both in Africa generally and in Ghana particularly, where parties, disenchanted with the dilatory procedures of the formal courts, have clamoured for traditional techniques of resolution. Indeed dispute resolution would have been impossible without the active involvement of chiefs in all parts of Ghana. And it is my considered opinion that the absence of strong traditional systems in some African states, particularly in Liberia, Sierra Leone and Cote D'Ivoire, has contributed to the instability we see there today.

PERSONAL PERSPECTIVES AND EXPERIENCES

At this juncture, I would like to illustrate the potential role of chiefs by focusing briefly on what I have done since I ascended the Golden Stool of Asante. Five years ago, I took an oath before my people on 6th May 1999 to rule with honesty and truth.

Ghana, at the time, was ending the second time of democratic rule. Our economy was not in the best of shape as a nation. In the Asante community itself, educational standards were falling, children were dropping out of school at an alarming rate to chase jobs for a living; and some children were attending school under trees. In the health sector, HIV/AIDS was threatening our population and our entire social and economic fabric, and our children were being bombarded with foreign cultural material. Added to this were a large number of chieftaincy, succession, land and litigation cases before the courts, which were impeding social cohesion and economic development.

In my first address to the Asanteman Council, the highest level of traditional authority in Asante, I underlined all these problems and challenged all the chiefs to get involved in programmes and projects that would address the unacceptable trends in the communities. I indicated to my chiefs and people that the central government alone could not solve all the problems of society. I argued that leaving conditions to deteriorate would amount to abandoning our social and moral functions.

Education Fund: The next thing I did was to set up the Otumfuo Education Fund, under an independent body, to harness contributions from all sectors of society to support bright but needy children in our communities. Contributions have come from Ghanaians overseas. To date, over 2000 children have benefited from scholarships offered by the Fund.

Beneficiaries have not come from Asante alone, but also from the other nine regions of Ghana, irrespective of their gender.

Health: I also established a Health Committee to advise me on steps to stem the tide of HIV/AIDS prevalence in the region. The committee was also charged to work closely with the Regional and Metropolitan Medical Team to find support for the eradication of infant mortality, elimination of glaucoma and other eye diseases, buruli ulcer, guinea worm and other water-borne diseases. Today, my health sector concerns have been taken over by my dear wife who runs an NGO and continues to support me on that front.

Interaction with External Bodies: I took my concerns about the social conditions of my people further when the then Country Director of the World Bank, Peter Harold, paid a courtesy call on me late 1999. I charged that the practice whereby traditional rulers were left out of the planning and management of projects at the community level was wrong. I indicated that it was not in the interest of communities for government to sideline traditional leaders when it came to the sitting and management of projects. The result of my perseverance with the World Bank led to the establishment of the project now called PROMOTING PARTNERSHIP WITH TRADITIONAL AUTHORITIES PROJECT.

Under the PARTNESHIP project, the World Bank is assisting Asanteman with a grant of \$4.5 million to build the management capacity of chiefs, rehabilitate schools and build sanitation facilities in 41 communities, develop health education modules for traditional authorities to lead in awareness creation in HIV/AIDS, and build programmes to preserve traditional values and culture. In all cases, traditional

leaders are playing active roles in the implementation of projects.

They follow the Bank's strict rules regarding disbursement of funds, including procedures for accounting and audit of expenditures, to avoid misuse of funds and to ensure successful completion of the projects. Let me emphasize that district local government officials are partners at all stages of this programme.

This year, I was privileged to be invited to Washington DC as a private guest of Mr. James D. Wolfensohn, President of the World Bank. This was my second time, and I used the opportunity to carry along an extension of my development agenda in the partnership vein. This time, my concern was with the Millennium Declaration, which was adopted by Heads of State and Government at the United Nations General Assembly in 2000. Part of the Declaration says and I quote: "We will spare no effort to free our fellow men, women and children from abject and dehumanizing conditions of extreme poverty (Unquote)..."

Among other things, the Declaration aims to (Quote) "halve the proportion of people who are unable to reach or afford safe drinking water ... (Unquote)" Great declarations, I say to myself. But then, how can traditional leaders be involved in solving problems which rightly fall at their doorstep?

Upon consultation with my chiefs and elders, I concluded that if we are to commit the international community to an expanded vision of development, one that is people-centered and vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development, then all of us in leadership positions have a moral responsibility to get involved. On current records, I cannot see how Government interventions alone can solve the problems of Ghana.

In a country with a population of just over 20 million, Ghana has 7.4 million people drinking unsafe water, and more than that figure are exposed to poor sanitation. I therefore presented a case to the World Bank asking for a grant to fund water and sanitation facilities for 1000 communities in five regions of Ghana as supplement to Government interventions. This was well received by the Bank, and as I am speaking, the pilot phase is ready to take off. We as traditional leaders are undertaking to mobilize our various communities to own the projects and manage them. This is in the true spirit of partnership with traditional authorities. We are turning round the often-repeated but poorly organized 'supply-driven' approach to development to a "demand-driven" one. This Project is in consonance with the World Bank's own evolving concept of good governance.

In recent years, the Bank has been exploring new ways of empowering and enabling its clients. It has embraced mechanisms that promote "citizen voice participation" and allow non-governmental entities and other groups of citizens an effective say in the design and implementation of projects. Projects are not seen as viable unless they are "owned" by the people most directly affected by them. There is a growing concept of Community Owned Rural Development Projects, which is currently being tested in Ghana.

The involvement of traditional leaders and their people in the Bank's operations is therefore a logical extension of the Bank's own evaluation of actors other than its conventional partners and the recognition of the importance of innovative mechanisms for reinforcing the development endeavours of its clients.

Conflict Resolution: Your Excellencies, one area where the traditional system of governance has shown tremendous success is in conflict resolution. We have sat in council with chiefs, sub-chiefs and elders and dispensed justice to the satisfaction of all. Applying the norms of customary law, recognized under the constitution of Ghana, the king or chief settles all disputes that come before him. In the past five years, following an appeal I made to all concerned, nearly 500 cases, that would otherwise be still sitting in the books of modern law courts and dragging on intractably, have been settled amicably before my traditional court. These were land, chieftaincy, succession, criminal and civil cases. Peace has returned to communities whose development was halted, and families have been re-united in several

instances.

You may also be interested to know that for the past five years, I have caused to be recorded on video all cases that have come before the traditional court, and my secretariat has begun transferring them onto CVDs and DVDs to help preserve the institutional memory of my court.

Criticism against Traditional Rule: Excellencies, it will be remiss on my part not to take advantage of this august forum to respond to some of the criticisms that have been leveled against traditional rule by some social commentators and critics. They contend that the system under which total power was in the hands of a hereditary ruler whose legitimacy derived from the circumstances of his birth cannot be compatible with the idea of democracy as a government of the people by the people and for the people. They hold further that the chief is a despotic monarch who operates under no legal or political control and is therefore not accountable to the people.

It must be said here that a chief is chosen from eligible members of the ruling family with the choice based on the personal qualities of the candidate. The Electoral College that elects the chief is composed of representatives of the various clans or families in the community. The non-stool holders (young men) act as a pressure group to ensure that the elders choose the best candidate.

With respect to accountability, it should be emphasized that the chief is expected to be aware at all times that the loyalty and allegiance which the people owe him are based on the understanding that he will follow the laws and show due respect to others as well as take account of their views and protect the property of the state with diligence and honesty.

I therefore challenge critics of the traditional system to re-assess their thinking.

CONCLUSION

In conclusion, I would like to draw attention to the phenomenon of dualism in Africa and the role chiefs play in eliminating or attenuating it. Almost every African state has two worlds: one world is the largely urban, where modernization is evident in terms of the impact of the Constitution, modern western-oriented laws, a developed physical infrastructure, existence of health and other social facilities, a vibrant cash economy, economic institutions, and the prevalence of English, French or other Metropolitan legacies.

In this world, which commands much less than the majority of the entire national population, the impact of traditional African systems on the lives and conduct of the people is minimal. There is visible evidence of institutions of central administration, the ministries, departments, the Courts and so on, and the chiefs are sometimes relegated to decorative or cultural sideshows with little social clout.

The other world, which is predominantly in the rural areas, and is populated by the majority of the citizenry, is hardly touched by the sophisticated constitutional and legal structures or the official court systems. The people in this world largely have a traditional worldview and look to their chiefs and elders for development, settlement of disputes, allocation of land, financial support to the needy and other elements of social insurance. They hardly speak English or any European language. They have limited access to health facilities or other social amenities. They are mainly farmers or peasants and the quality of life is significantly lower than that of the other world. No chief who commutes from the first world to the second world can fail to appreciate the reality of this dualism and the challenges it poses for an integrated national development which is equitable and sustainable.

Most of the development endeavours of chiefs are dedicated to addressing the needs of the second world and bridging the gap between the two worlds. This is a task which is beyond the resources or even the vision of most governments. It is my respectful submission that we t he traditional rulers have to

provide the crucial leadership in this area.

Addressing the problems of the second world establishes the proper infrastructure for the growth of democracy and good governance. We chiefs have converted the weapons of war into the instruments of development and peaceful resolution of disputes. Far from acting as a rival of state political power, we sustain the state particularly in cases of collapse of the state apparatus especially when we have to deal with failed states. This was anathema in the days gone by. It will pay all of us richly if we accepted the obvious fact that the two institutions complement each other.

Ladies and Gentlemen: our main contention is that traditional authorities are natural and obvious partners in the development process and governance in Africa. We are indeed partners in progress.

No concept of governance or development in Africa will be complete without acknowledging the role of traditional authorities. We there fore appeal to this to rum, all African governments and all international organizations to place the role of traditional authorities firmly on their agenda for development and governance.

Distinguished Chairman, Your Excellencies, Dear Delegates,

I hope I have left you in no doubt that though weaknesses still exist in the traditional system, it is still a viable partner in the social and economic development of our communities in Africa. If Africa wants peace, truth and justice; if Africa wants to restore its traditional values of being each other's keeper; if Africa genuinely recognizes deep weaknesses in its developmental agenda, then I can only say that it is not too late to critically look for convergences between the modern state and the traditional state. The hopes of our youth are hanging in the doorway looking for direction. Do not let us disappoint them. Remember that as traditional leaders, our social contract with our people is forever and not for the next election.

It now remains for me to thank you most sincerely for the opportunity to share my thoughts with you and for your kind attention. I congratulate you arid all those who were involved in organizing this important and worthwhile event, and I wish you all the best and continued success.

I thank you.