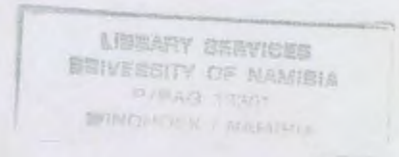




**Institute of
Social Studies**



**ROLE OF TRADITIONAL LEADERS
IN NAMIBIA'S DECENTRALIZATION
POLICY**

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NAMIBIA - UNAM

UNAM, 28 FEBRUARY, 2001

DEDICATION

This study is dedicated to:

**ALL THE TRADITIONAL LEADERS AND THE RURAL
COMMUNITIES IN NAMIBIA AS WELL AS MY FAMILY,
MY MOTHER AND IN MEMORY OF MY LATE FATHER**

ACKNOWLEDGEMENTS

Special thanks to my supervisors Dr. Dele Olowu and Professor Gerhard Töttemeyer, Minister Hon. Dr. Nickey Iyambo and my colleagues at work, especially the Permanent Secretary Mr. Samuel H. /Goagoseb.

My greatest appreciation to my friends who stood by me, Dr. Thomas Schild (GTZ), Mr. Sipho Singo (UNAM) and Mrs. Rebekka Haoses (Secretary).

However, I remain totally responsible for any errors or misinterpretation that may appear in this paper.

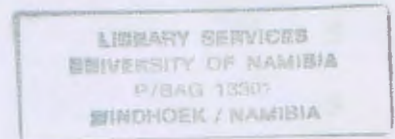


TABLE OF CONTENTS

DEDICATION	i
ACKNOWLEDGEMENT	ii
CONTENTS	iii
ACRONYMS	vi
ABSTRACT	viii
CHAPTER I - INTRODUCTION	1
1. STATEMENT OF THE RESEARCH PROBLEM	2
2. OBJECTIVE OF THE STUDY	2
3. RESEARCH QUESTION	3
4. METHODOLOGY	4
1. Documentary Search	5
2. Interviews	5
3. Questionnaire	6
5. The Theoretical Framework of the Study	6
6. Scope of the Study	9
7. Justification of the Study	9
CHAPTER II	11
2. TRADITIONAL LEADERSHIP AND DECENTRALIZATION	11
A CONCEPTUAL FRAMEWORK	11
1. Traditional Leadership / Authority	11
2. Defining Decentralization	15
	iii

3. Traditional Leadership and Decentralization	15
4. Botswana	17
5. Zimbabwe	18
6. Uganda	19
7. Conclusion	20
CHAPTER III	21
3. DECENTRALIZATION AND TRADITIONAL LEADERS IN NAMIBIA	21
1. Introduction and Country Profile	21
2. The Policy of Decentralization in Namibia	22
3. The Decentralization Enabling Bill	26
4. Traditional Leaders in Namibia – Brief Historical Background 1884 – 1989	27
5. Post Independence Period 1990-2000 – The Role and Functions of Traditional Leaders in Namibia	31
6. Political structures and processes affecting the institution	33
CHAPTER IV (4)	35
4. INTERPRETATION, PRESENTATION AND ANALYSIS OF DATA	35
INTRODUCTION	35
1. Interview questions for Politicians, Administrators and Academics	38
2. Questions for Traditional Leaders in Omusati and Kunene regions	46
3. Data Analysis of Regional Research Data	55

CHAPTER V	56
5. CONCLUSION AND RECOMMENDATIONS	56
1. Conclusion	56
2. Recommendations	57
6. APPENDICES	62
7. BIBLIOGRAPHY	67

DTA	DEMOCRATIC TURNBALLE ALLIANCE
GRN	GOVERNMENT OF THE REPUBLIC OF NAMIBIA
GTZ	DEUTSCHE GESELLSCHAFT FÜR TECHNISCHE ZUSAMMENARBEIT
HSRC	HUMAN STUDIES RESOURCE CENTER
MOBEC	MINISTRY OF BASIC EDUCATION AND CULTURE
MOJ	MINISTRY OF JUSTICE
MLRR	MINISTRY OF LABOUR, OCCUPATIONAL AND REHABILITATION
MLRCH	MINISTRY OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING

ACRONYMS

- CASS** - **CENTER FOR APPLIED SOCIAL SCIENCE**
- COD** - **CONGRESS OF DEMOCRATS**
- CPST** - **CENTRE FOR PUBLIC SERVICE TRAINING**
- DTA** - **DEMOCRATIC TURNHALLE ALLIANCE**
- GRN** - **GOVERNMENT OF THE REPUBLIC OF NAMIBIA**
- GTZ** - **DEUTSCHE GESELLSCHAFT FÜR TECHNISCHE
ZUSAMMENARBEIT**
- HSRC** - **HUMAN STUDIES RESOURCE CENTER**
- MOBEC** - **MINISTRY OF BASIC EDUCATION AND CULTURE**
- MOJ** - **MINISTRY OF JUSTICE**
- MLRR** - **MINISTRY OF LANDS, RESETTLEMENT AND
REHABILITATION**
- MRLGH** - **MINISTRY OF REGIONAL AND LOCAL
GOVERNMENT AND HOUSING**

- OECD** - ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
- OPC** - OWAMBO PEOPLE'S CONGRESS
- RDCC** - REGIONAL DEVELOPMENT CO-ORDINATION COMMITTEE
- SWAPO** - SOUTH WEST AFRICAN PEOPLE'S ORGANIZATION
- UDF** - UNITED DEMOCRATIC FRONT
- UNDP** - UNITED NATIONS DEVELOPMENT PROGRAMME
- UNAM** - UNIVERSITY OF NAMIBIA
- UNIN** - UNITED NATIONS INSTITUTE FOR NAMIBIA
- UNIP** - UNITED NATIONAL INDEPENDENT PARTY

ABSTRACT

This paper looks at the role of traditional leaders in the new decentralization dispensation in Namibia. The paper contends from the onset that the decentralization policy does not have ample provisions intended to harmonize traditional leadership with modern forms of government. What prevails are inconclusive sections that indicate the need to involve traditional leaders in some of the development committees of regions. An exposé of this phenomenon is done by looking at the position of traditional leaders before gazetting in 1995 and their role thereafter; that is, whether the roles of traditional leaders and elected functionaries have been appropriately rationalized and harmonized as well as the reactions of traditional leaders themselves on their role as expressed in the decentralization policy.

A comparative approach is used in the research. First of all two regions Omusati and Kunene are selected for the study as they offer a diversity of cultures and traditions that approximate the panoply of traditional authority in Namibia. Secondly, Zimbabwe, Zambia, Botswana and Uganda are used as worthwhile comparative cases of those countries that have adopted decentralization policies but have to a reasonable extent, succeeded in mobilizing traditional leaders to participate in their decentralization initiatives. Documentary search, interviews and questionnaires are used as data collection instruments while simple qualitative methodologies are used to analyze the data.

From the responses and information collected through documentary search, it is evident that the role of traditional leaders as provided for in the decentralization policy is rather minimal. Traditional authorities have been made to subordinate to the authority of regional councils. Provisions indicate that they can only participate through involvement in some of the regional council committees. Consequently traditional leaders think that there is need to revisit this piece of legislation so as to harmonise their relationship with existing modern government structures. It is also encouraging to note that even senior

government officials interviewed including the Minister and Deputy Minister of the Ministry of Regional and Local Government and Housing realize the importance of traditional leaders in Namibia and think that the role of these leaders should be increased under decentralization. What remains is explicit advocacy that can assist government to come up with clear modalities for increasing this role. A brief statement of recommendations is given at the end where the study indicates among others, the need to involve traditional leaders in all regional development committees from planning committees to implementation and evaluation of development activities in the region. Namibia just like most African countries is a dual society, which straddles both traditionality and modernity. It still attaches great importance to its traditional leaders and realizes that trying to undermine them would be to negate the very development agenda that is sought by the decentralization imperative and modern forms of governance.

CHAPTER ONE

INTRODUCTION

It is an irrefutable fact that the state in Africa, as we know it today has its roots in colonial rule. Namibia, having been a colony, and the last one to gain independence in Africa, is no exception. Traditional authorities used to act as the only authority before the colonial government came into power. "They used to govern within empires and kingdoms of varying sizes headed by kings and chiefs" (Adamolekun, 1999:59). The colonial governments capitalized on the importance and popularity of the traditional authorities at that time to the extent that they exploited them for their colonial interests and benefits. According to Adamolekun, the British called the traditional rulership indirect rule where the colonial power ruled through traditional chiefs, who interacted with their people collecting taxes and maintaining law and order among others.

Independent Namibia has sought to redefine the power of traditional leaders in the country. It has done so through the promulgation of the Traditional Authorities Act (Act 17 of 1995). It is this Act which clearly lays out the powers, functions and duties of Traditional Leaders. Details of these powers, functions and duties will be discussed later in this study. According to the Traditional Authority's Act, for one to be a traditional leader, he/she has to be a chief, a leader of a tribal community, a senior traditional councilor or a traditional councilor designated or appointed. Thus, consequently, a traditional authority means "a traditional authority of a traditional community, consisting of a chief and traditional councilors". Traditional authorities are located within regions and particularly in rural areas. This means that these authorities have to work closely with regional councilors, share duties and responsibilities in order to promote local development.

Before Namibia's independence, traditional leaders played important roles in the cultural, spiritual, social, economical and political development of rural communities. They resisted German occupation during the colonial period of 1884-1915 and the South African occupation from 1915-1989 (Keulder 1998:36-45). Traditional leaders performed a significant task in settling disputes among the communities, ensuring peace and tranquility in their areas of jurisdiction; acting as trustees/custodians of the land; demarcating land into

plots for the people; preserving the ecology of their territories; and ensuring some modicum of socio-economic development in line with the needs of traditional societies then.

Namibia has come up with a decentralization policy which seeks to act as an operational guide for regional councils and local authorities. Its adoption also makes it imperative that traditional authorities conduct their duties under the guidelines of the Act. This means that there should be a proper synchronization of duties, powers and functions of traditional authorities with the demands and expectations of the new policy. The manner in which these traditional leaders are expected to function under this decentralization policy, forms the basic focus of this study.

1. STATEMENT OF THE RESEARCH PROBLEM

The main research problem of this study is to investigate whether the new decentralization policy acknowledges the important role traditional leadership should play as an informal institution for rural development. Significant in dealing with this problem is to realize that traditional leadership in Namibia is wholly integrated into modern forms of governance where rulership is passed down to lower organs of the state authority in order to enhance grassroots participation in the whole process of governance. Consequently the relationship between traditional and modern state authority at all levels of governance is of utmost importance to the orderly and efficient running of the state.

2. OBJECTIVE OF THE STUDY

The purpose of the study is to:

- (a) Document the functions of traditional leaders in the past and present so as to show whether the present Decentralization Bill has the capacity to empower them or not.
- (b) Define and give an account of the policy of decentralization in Namibia, especially in relation to the functions and the roles of traditional leaders.
- (c) Propose remedies for ensuring that the new Decentralization Bill serves to empower rather than dis-empower the traditional leaders.

This study focuses on the role of traditional leadership in Namibia. However, trying to understand the role of traditional leaders today cannot be appropriately done without due

regard to the role of these leaders during the colonial dispensation. It is significant, from the onset, to indicate that although the colonial processes destabilized and fragmented the traditional forms of development, they did not destroy these structures. They only managed to subordinate them to colonial forms of government, hence their continued existence to this day. The task of the traditional authority is to adapt itself to the demands of a modern society by conceptualizing and adapting their role within a changing environment. Thus objective (a) seeks to document the role of traditional leaders in the two political eras (colonial and post colonial), to gauge the similarities and differences and whether or not these leaders have more capacity to participate in local development or not. Objective (b) on the other hand reviews decentralization policy to see if it meaningfully accommodates traditional authorities as viable entities which need to be integrated and harmonized with modern forms of government. The understanding here is that ignoring these authorities under such a policy would be to miss the point and derail the whole exercise of local participation. Objective (c) focuses on capacity building, or providing room for the way forward if it is found that the new decentralization policy fails to integrate and harmonise the modern forms of government with the traditional forms. It is important to indicate from the onset that the study considers the role of traditional authorities as paramount and one that cannot be ignored without adverse effects to the whole fabric of good democratic good governance in Namibia.

3. RESEARCH QUESTIONS

This study poses the following questions, which act as a guideline to the whole research process.

The primary question is:

What is the role of traditional leaders in the new decentralization dispensation in Namibia?

In order to present the debate posed by this question, the following four sub-questions are focused upon:

a) What was the position of traditional leaders at independence, and from 1990 – 1994 vis-à-vis Local Governance

In order to answer this question, a historical review of the role of traditional leaders in Namibia's local government system is given, with specific reference to the political, social and administrative roles.

b) *What has been the role of traditional leaders after gazetting in 1995 to this day and what does their formal recognition mean for rural local governance?*

In order to answer this question the Traditional Leaders Act of 1995 is reviewed to assess the provision for the powers, functions and duties of traditional leaders in the new local governance system since 1995. The reaction of the traditional leaders to this Act is then determined and analyzed accordingly.

c) *Are the roles of traditional leaders and elected functionaries appropriately rationalized and harmonized to create a coherent and well coordinated system of rural local governance ?.*

In order to answer this question, the relationship between traditional leaders and regional authorities in Namibia is examined.

d) *What is the reaction of traditional leaders to their role as expressed in the decentralization policy?*

In order to answer this question the study reviews the provisions that the decentralization policy makes on the role of traditional leaders in Namibia. It also highlights whether traditional leaders had an input in the design and formulation of the decentralization policy and their reaction to the manner in which the policy is being implemented currently.

4. METHODOLOGY

A comparative study approach is used in this research. Two regions with different traditional systems and structures have been selected for the study so as to offer the study a meaningful comparative framework. The regions are the Kunene Region and the Omusati Region. The two are part of the thirteen regions that make up Namibia and are located in the north-western part of Namibia (See Appendices 1 and 2).

Both primary and secondary data were collected to provide sufficient and well-corroborated information for the study. The data collection instruments used include documentary search and interviews .

4.1. Documentary Search

Documentary search included the following documents:

(a) Legal instruments of the Government of Namibia such as:

- The Constitution of the Republic of Namibia (1990);
- The Regional Councils Act (1992);
- The Local Authorities Act (1992);
- The Traditional Authorities Act (1997); and subsequent amendments thereof.
- The Traditional Councils' Act (1995);
- The Decentralization Policy Document (1996);
- The Decentralization Enabling Bill (2000) and
- The Communal Land Reform Bill (2000);

(b) Books, research reports, published and unpublished literature, seminar papers, journal articles and comparative data from other countries such as Botswana, Uganda and Zimbabwe are used in the second chapter. This has been done to enrich the study and derive lessons from those countries that have had to deal with the question of traditional leadership and decentralization.

4.2. Interviews

Interviews were conducted with:

Minister and Deputy Minister – MRLGH

Permanent Secretary – MRLGH

Director of Decentralization – MRLGH

Decentralization Consultant – MRLGH

Deputy Minister - Ministry of Justice

1 Academic – UNAM

2 Governors - Omusati and Kunene Regions

Speaker of the National Assembly

A total of 10 people were interviewed.

4.3. Questionnaire

A questionnaire was administered to the traditional leaders of the two regions: Omusati and Kunene. To be specific, nine Chiefs and five Councillors were involved in answering the questions. Analysis of data is basically qualitative.

5. THE THEORETICAL FRAMEWORK OF THE STUDY

This study uses the **harmonization approach** as a theoretical framework for defining an appropriate system of involving traditional leadership in present day governing structures in Namibia. In brief, the harmonization approach calls for the acceptance of the existence of traditional systems of authority and meaningfully harmonizing them with formally elected leaders. The intention is to produce a functional system that acknowledges the role of different actors in any local governance system. This allows one to explain Namibia's decentralization system, using the broader system framework of policy making as a basis for understanding the whole governance process and the quest for democracy and good governance.

Countries in Africa have used different approaches to regulate the operation of traditional authorities viz-a-viz those of modern forms of government. These include non-regulated dualism; regulated dualism; parallelism; subordination; integration; and harmonization.

Non-regulated dualism approach exists where there are no regulations to guide interactive processes between traditional and elected structures in a given country. In such a situation the activities of one structure may be guided by law without reference to the other. This usually brings chaos and clashes between the two structures. Hlatshwayo (1995:4) indicates that such examples existed in Zambia, Zimbabwe and Namibia particularly during the colonial era. Regulated dualism occurs where both traditional and elected or modern

structures exist by law and are independent of each other. Thus, those structures are parallel to each other and are equal in status. For example, in Botswana the three local government structures, viz, Tribal Administration; Land Boards; and District Councils are, in law, equal in status and operate as independent entities. According to Hlatshwayo (1995): “although the law may require coordination and consultation between traditional and elected structures under “regulated dualism” the practice is likely to be for both institutions to jealously guard their independence and emphasize their autonomy. This situation usually leads to unhealthy competition for power, duplication of effort and wastage of resources (1995:3).”

Subordination approach is where traditional structures are subordinated to the elected or modern structures. Classic examples are those of Namibia and Zimbabwe. Section 12(2) of Namibia’s Traditional Authorities Act, 1995 states that in the case of conflict between traditional authority and a local authority council (or state institution of central government or regional council) the powers of the local authority (or state institutions) shall prevail. In Zimbabwe, the Zimbabwe Communal Land Act forbids traditional leaders from allocating land without prior permission from elected councils (Hlatshwayo, 1995).

Integration approach entails the merging of the two structures into one. Zambia sought to use this model but it failed to take root. Mukwena (1992:237) indicates that the rationale behind the integration imperative was officially presented as the need “ to escape the problems of lack of coordination and duplication of effort and resources that characterized local government before 1981”. Mukwena argues however that perhaps this was in fact, a strategy to revitalize UNIP (the United National Independence Party) which was losing support at the grassroots levels.

This study advocates the harmonization approach. It stems from the basic assumptions that:

- (a) both traditional and elected structures have distinctive and specialized roles which require separate existence in any political dispensation.
- (b) both structures have specific roles and objectives that compliment one another for

development purposes.

The harmonization approach indicates that traditional structures and modern forms of Government can exist side by side harmoniously if their modus operandi, roles and objectives are reconciled and harmonized to contribute to national development (Hlatshwayo). Harmonization indicates that the two structures are necessary for community development in the periphery. They complement each other and are vital for nation building. The approach concedes to the paramountcy of elected structures, but indicates that historical realities emphasizing traditionality require traditional authority leadership to be represented in local authorities or regional councils to take part in the process of decision-making. In this case, traditional leaders would then have a chance to argue the traditional point of view in council while elected councilors argue in the modern way. However, both would be bound by the decisions that emanate from such a discourse (Hlatshwayo, 1995:8). Thus, the harmonization approach emphasizes representation of all stakeholders in decision-making structures. It ensures that a diversity of ideas is accommodated in the decision-making process. It enriches decisions and gives power to the grassroots people. It caters for group interests and enhances self-determination. This is what decentralization is all about and thus traditionality does not oppose self-empowerment but enriches it as those who participate to do so under a clear cocoon of self-identity.

The issue here is that the decentralization policy should allow traditional leaders to play a significant role in local development and this can only take place if the roles of the two authorities (elected and traditional) are harmonized and allowed to complement each other. The harmonization approach acknowledges the importance of traditionality in Africa and that development outside a traditional framework would be to undermine a people's identity and their being. Harmonizing relates to synchronizing. The study tries to determine whether Namibia has accepted this approach or not. If not, what should be done to rationalize and restructure its institutions for this imperative.

7. SCOPE OF THE STUDY AND LIMITATIONS

As indicated earlier, the study focuses and limits itself to two regions, Omusati and Kunene. The intention is to offer a limited but meaningful comparative framework. The case studies used in this approach intended to make an in-depth analysis of what is happening in the identified regions, which can then serve as lessons and indicators for the other affected regions. The time frame is limited to the period 1990-2000. The research specifically relates to the following traditional authorities:

Omusati Region - Oukwambi, Oukwaluudhi, Oukolonkadhi, Ombalantu, and Ongandjera.

Kunene Region - The Herero, (Tom and Tjavara Royal Houses) the Damara and the Nama (Swartbooi T.A.) traditional authorities.

The two regions are selected because they have nine (9) traditional authorities and all of them are recognized by the government. They are all individual entities and perform different cultural practices. The conclusions to be drawn from the study are in all probability applicable to Namibia as a whole, although of course, there may be exceptions due to regional and ethnic disparities.

8. JUSTIFICATION OF THE STUDY

The study reflects important research. It highlights the extent to which traditional leaders are allowed to participate in Namibia's decentralization structures. It is also expected to aid decision - makers both, political and administrative, in rationalizing policy content and action in order to promote participatory democracy and good governance. It can serve as a springboard for further research on the role of traditional leaders in local governance and the whole decentralization system. Given the fact that Namibia has limited human and financial resources, the study is expected to prompt the harmonization of functions and duties of traditional leaders more optimally within the decentralization policy and thus utilize their human capacity and expertise appropriately.

In addition, the study is expected to contribute to the literature on traditional leadership and local governance by highlighting the extent to which traditional leaders should participate in the democratically decentralized rural local government system in Namibia. It also adds to

the sparse literature available as well as to provide a critical analysis of the position of traditional leaders in contemporary Namibia.

CENTRALIZATION

The centralization of traditional leadership and administration, which has been a major feature of the process of modernization in many developing countries, has also been a major feature of the process of modernization in Namibia. The centralization of the state apparatus has been a major feature of the process of modernization in Namibia, which would strip traditional leaders of their traditional powers and place them within a centralized framework. Although the centralization of the state apparatus is a major feature of modernization, it does not mean that traditional leaders should be completely excluded from the development process. In fact, it seeks to bring them into the development process as partners in the process of modernization. The centralization of the state apparatus, financial and material resources, and the centralization of traditional institutions could in fact be a major feature of the process of modernization. This could be an

...the centralization of the state apparatus and the centralization of traditional leadership and administration. The centralization of the state apparatus and the centralization of traditional leadership and administration are two major features of the process of modernization in Namibia. The centralization of the state apparatus and the centralization of traditional leadership and administration are two major features of the process of modernization in Namibia. The centralization of the state apparatus and the centralization of traditional leadership and administration are two major features of the process of modernization in Namibia.

CHAPTER II

2. TRADITIONAL LEADERSHIP AND DECENTRALIZATION:

A CONCEPTUAL FRAMEWORK

INTRODUCTION

This chapter reviews the relationship between traditional leadership and decentralization. The two key concepts are explored in order to weave them together and see if traditional leadership and decentralization can coexist in any given polity. The contention of the study is that there is nothing, conceptually and analytically, which should stop traditional leaders from taking part in national development within a decentralized framework. Although decentralization is viewed strictly as a concept akin to modern forms of government, it does not distance the participation of different social groups in society. In fact, it seeks to mobilize these to allow them to play a meaningful role in their own development process and that of the country as whole. With the problems of human, financial and material capacity experienced by the government in rural areas, traditional authorities could in fact be utilized to fill the gap without necessarily being politically involved. This could be on a voluntary basis.

2.1. Traditional Leadership / Authority

At the center of controversy of modern governance in Africa and the need to transcend the past is the concept of traditions. Some political leaders of independent Africa seem to have a problem in accommodating traditional forms of authority to the present ways of governance. As such, these politicians are eager to minimize the role of traditional leaders with the hope that their insignificance will ultimately lead to their disappearance from the socio-political scene. On the other hand however, some seek to integrate them in the current political dispensation and allow them to exercise their authority and leadership for the benefit of the people they represent and the nation at large.

The question however is: what is tradition and hence traditional authority and traditional

leadership?. One may argue that the concept tradition involves images of the past about one's being. It is about the self, identity and belonging to a community with its established and acknowledged ways of doing things that have characterized it over time. Thus, tradition denotes a people's custom or actions associated with their past. Tradition is not about being archaic, inconsistency with the present and the future, or retrogression, or being myopic and resisting mobility. In fact, the opposite is true. Tradition is about having a background on which one bases his/her actions. It is about accumulated experience and the ability to use the past to shape the future. Tradition is part of a historical consciousness of a culture, which socializes the members in such a way as to make them understand immobility and reject all forms of cultural invasion intended to distort their being. The African people's history is endowed in this tradition. This tradition is not haphazard. It is organized and well entrenched in the fabric of the life of the people. That it is organized, inherently presupposes the prevalence of leaders and authorities to guide the transformation of the people whose life is based on a particular tradition. The question within this framework is: what is traditional leadership or authority for that matter?. The concept traditional leadership is understood and defined variously. Some of the interesting variations include the following:

- Traditional leadership connotes the expression of the self-governance of traditional communities.
- Traditional leadership denotes a consensus driven decision-making system which involves all the relevant affected parties within a traditional community (Ngubane, 1997:85). In this regard traditional leaders are viewed as catalysts within the community where their role is to motivate the community in a participatory approach and lead them into making decisions on various issues of concern. The common saying that "a chief is a chief through the people" seems to hold water here.
- Traditional leadership is the unifying factor of the various features of society organizations of a traditional community whereupon a traditional leader is but a component of the system of traditional leadership which includes the

traditional council and several levels of decision-making depending on the matter concerned (Ngubane 1997:86).

Significant in the views indicated above is that traditional leadership is indispensable where traditional society exists. Colonial forces have failed to destroy this form of leadership. Independent Africa has also failed to destroy it, except in the case of Tanzania where traditional leadership has been abolished by the Nyerere socialist government.

A critical analysis of traditional leadership in Africa indicates that it is founded on historical realities. Even after subordination by colonial forces, it has grown to be one of the major unifying forces of African society. This is not to underplay the fact that colonial governments used traditional authority to suppress the very communities it was supposed to protect but to indicate that traditional leaders have outgrown this forced colonial role and are once again accepted as the authentic leaders of rural communities. Although there may be local authorities and regional councilors within rural communities, the tendency has always been that these communities remain suspicious of the leaders of modern structures of government. It is not uncommon that these communities prefer the leadership of traditional leaders who they trust to that modern society.

The general functions of traditional leaders include those of:

- maintaining peace, order and stability;
- land administration;
- mobilizing communities for development;
- providing advice to political leaders on issues of local tradition, customs and values;
- acting as custodians of customary laws, customs and values;
- protecting the community and ensuring that the poor are afforded with the basic needs such as food and shelter (Sithole, 1997; Nigere 1997; Keulder, 1996; and Selinyane, 1997); and

- including popular participation in community affairs.

As far as Namibia is concerned, the functions of traditional leaders were perceived to be two-fold: first to undertake upon request by the President or a Minister to investigate into matters pertaining to communal land; and second, to advise the Minister on any bill pertaining to land control and the utilization of communal land before the bill is tabled in Parliament (Keulder, 1997:20).

Kenneth Kaunda entrenched the role of traditional leaders in Zambia. When he addressed a special meeting of chiefs he said that "the mobilization of people's effort will be a task all chiefs are fitted with, by reason of the respect for a chieftainship which has been inherited from predecessors. They can act as a link between the old and the new in Zambia which will enable the country to go ahead as one nation, one people". (Kaunda in Nonkonyana, 1997:97). Kaunda further stated that chiefs would be consulted by his government on matters affecting the people. "My support for our chiefs is well known, and I reaffirm that it will be the intention of my government to uphold the position of chiefs in our country and to consult them and seek their advice on all matters affecting their people and themselves" (Kaunda in Nonkonyana 1997:97).

The few citations above indicate that traditional leadership as Africa's heritage cannot be dispensed with easily. Significant is that different governments depending on objective, conditions of their countries and traditional realities, have to use a model that they consider to be suitable for their purposes. Important also is to state that it is apparent that both traditional forms and modern forms of governance have historically coexisted in Africa (in both colonial and post colonial times) and thus, Namibia which only attained independence in 1990, should use this reality and its own experiences to chart the way forward for itself. One can expect that the role of traditional leaders will be redefined under the new political dispensation and a decentralization policy framework whose major focus is to empower communities at the local level. Such empowerment can only function well if these leaders are given an enhanced role to play in local development.

Before a detailed analysis is offered of the role of traditional leaders under a decentralization

framework in Namibia (see Chapter 3), it is important to give a summarized conceptual framework of decentralization, which will enable the reader to relate the concept to issues of traditional authority in a clear and succinct manner.

2.2. DEFINING DECENTRALIZATION

In order to understand the rationale behind Namibia's decentralization policy and the role decentralization can play to empower traditional leadership in participatory governance, it is important to define decentralization.

Decentralization refers to attempts to defer power from central government to regional and local levels. It refers, in particular, to the institutional framework for administration and political governance in a particular country, but it also involves a process. It relates to the role and relationship between, central and local institutions both public and private. The decentralization policy in a country involves two broad strategies, namely: political and administrative strategies. The argument of decentralization is strengthened by involving both administration and governance. Smith (1991:1) defines decentralization in terms of politics to refer to the territorial distribution of power, and that it is concerned with the extent to which power and authority are dispersed through the geographical hierarchy of the state, and the institutions and processes through which such dispersal occurs. Decentralization entails the subdivision of the state's territory into smaller areas and the creation of political and administrative institutions in those areas. These may be regional and local governments like in the case of Namibia. Decentralization can take place in both a federal and unitary state.

On the administrative realm, the concept of decentralization can be used to refer to the transfer of management responsibilities and resources to agents of the state located at such national levels, even down to the lowest level of governance (Adamolekun: 1999: 49).

2.4. Traditional leadership and Decentralization:

A closer look at traditional leadership and decentralization indicates that the two have the ability to enhance local participation. Although one is traditional in nature and the other is

rooted in modernity, the prime purpose is the same, i.e. to facilitate local decision-making and give room for local self-determination. This of course is said amidst competing views whereby some scholars discredit decentralization and on the other hand, others discredit traditional leadership. Considering examples in a number of African states (Nonkonyana 1997:97, Dia 1996:39, Whitaker 1988) one can discover that important fundamentals in traditional forms of governance are reflected in modern forms of governance. For example:

- (i) traditional authority looked at consensus decision making as fundamental to the running of a state;
- (ii) group interests and guided rulership were preserved. Thus, majority rule, winner-take-all or other forms of zero sum games were not acceptable (see Dia, 1996:41)
- (iii) participation of all in governance was sacrosanct;
- (iv) a well placed decentralization and local government system was part of the whole government process; and,
- (v) checks and balances existed to contain kings and chiefs who wanted to oppress the people. Above the normal political checks and balances, was control from the power of ancestral spirit where the traditional leader was afraid of angering these spirits through bad governance.

Of course, this is not to suggest that all leaders adhered to these fundamental principles. Some violated them as is the case in the present era of modernity.

Significant however is that those who design policies on decentralization and local governance should not take traditional structures as competitors with the modern structures of government. Instead, they should seek to harmonise the two to enable them to operate side by side complementing each other to facilitate to the greatest possible extent the attainment of the illusive development purpose cherished by both central government and the local communities.

As a traditional community, local people are found to involve themselves more in issues of a local nature as they would be aware that those in charge of their own identity (traditional

leaders) are also actively involved. In such a community anything that the chief seems not to be interested in or actively involved in is viewed with suspicion and thus, may have the tendency to undermine popular participation, which is cherished by political leaders and advocated in the decentralization policy.

Thus the harmonization approach ensures this mutual co-existence of structures. It ensures that traditional leaders are mobilized and considered as important co-stakeholders in decentralization. They can in fact, use their popular base to give legitimacy to the local leadership at the rural levels of sub national governments. Traditional leaders are best placed to mobilize communities and encourage them to actively participate in development programmes, democratic rule making and the whole electoral process. They can mobilize resources such as revenues and human resources in order to supplement government effort. With the necessary political support from central government, they can reorganize and strengthen their ability to perform all the tasks allocated to them through legislations.

To understand the importance of traditional authorities and the role they can play under decentralization, it is worthwhile to look at other African countries that have adopted decentralization policies but have, to a reasonable extent, simultaneously succeeded in mobilizing traditional leaders to participate in their countries' decentralization initiatives.

2.5. BOTSWANA

When Botswana became a Republic in 1966, the constitution provided for the establishment of the House of Chiefs. This house acts as an advisory body to the National Assembly and the Executive. The House does not have legislative powers, but is consulted on certain Bills. Keulders (1999: 112) said that, despite the shortcomings, the House of Chiefs did contribute to the successful governance of Botswana. It facilitated a better understanding of the State's policies by the ordinary rural population as its debates were heard over the national radio and reported in the national press. Issues raised and matters discussed in the house were reflected upon and clarified by the Chiefs upon return to their respective *Kgotlas*. Thus, they continue to act as a link between rural society and the central legislature, and most importantly, as agents of transparency. Traditional leaders in Botswana are still influential in some local administrative structures: - They serve on land

boards. They mobilize political support from the Communities under their jurisdiction (Charlton: 1993:344). They serve on different Development Committees at different levels of government authority;

The functions of traditional leaders as per the Chieftainship Act, of 1965, are as follows:

To maintain customary courts, arrest offenders through the tribal police and seize stolen properties; to regulate tribal affairs and convene tribal meetings in the Halics; to allocate tribal land; to function as ex officio chairpersons of the District Councils; and to serve as members of the House of Chiefs. The President of Botswana, through the Act of Parliament has powers vested in him to recognize, appoint, deposit and suspend the Chiefs. (Keulder, 1998: 177).

Botswana has fully incorporated traditional leaders in the administrative and developmental process. This has transformed the traditional leaders into fully – fledged, salaried civil servants. Some may argue that there are dangers that chiefs may dance to the tune of any ruling Government since they are paid allowance as in the common saying that ‘ you cannot bite the hand that feeds you ’. However, experience has shown that they have continued to discharge their duties as is expected by their communities and the traditional values that they are supposed to protect.

2.6. ZIMBABWE

There is a constitutional provision for the National and Provisional Houses of Chiefs. The National Council of Chiefs is also entitled to have ten (10) of its members to form part of the one hundred and fifty members of the National Assembly. The Chiefs are appointed by the President, like in the case of Botswana. As in the case of Namibia, Botswana and South Africa, the traditional chiefs were in charge of the pre independence rural local governance and administration. After independence, the administrative power of traditional leaders was transferred to elected local authority councils. The traditional leaders are allowed to be elected as council members. In order to restore some of the administrative powers that have been taken away at independence, President Robert Mugabe in his parliamentary speech in 1995 promised to amend the Rural District Act and the Chiefs Headmen’s Act in order to provide for the restoration of administrative and traditional power to the chiefs, headmen and village heads (Hlatswayo, 1998). According

to him, traditional leaders have both criminal and civil jurisdictions. Through the bill, they are given power to arrest, convict, try, etc. However, traditional practices are different and could cause conflict, he warned. The author continued to point out that elected structures had failed to respond to the needs of the community. Contrary to the traditional structures, they were alienated from the community. When elected structures failed, traditional structures were seen as a solution and, in his view that was not correct. He called for user friendly participatory approaches. Although traditional leaders in Zimbabwe have lost land as one of their areas of jurisdiction, informally they still do allocate land. A Parliamentary Report, 1995, is in their favour recommending, that in the future, communal land should be owned by village communities and ward boundaries be altered to coincide with headmen and chiefs areas and that these entities be surveyed and registered (Keulder 1995). Traditional leaders in Zimbabwe also play an important role in rural development as they serve on local development committees. They also play a major role in the maintenance of law and order.

2.7. UGANDA

In Uganda the Constitution of 1966 abolished the tribal Kingdoms. Through pressure from Buganda and as a strategy to ensure support during the elections, President Museveni in 1993 restored the Kingdoms. That was the same year the decentralization policy was launched. The 1995 Constitution enshrines the traditional leadership (Mukyala – Mukiiika; 1998: 96). The author questions the role traditional leaders will play through decentralization, especially in the efforts towards increasing people's participation in the decision-making and policy implementation process. She further queried the extent to which traditional leaders and their institutions can promote good governance through decentralization in Uganda. Will traditional leaders use their popular legitimacy to enhance popular participation and development at the local level or will they inhibit it? (Mukyala – Mukiiika; 1998:96). Through the Namibian experience, it is obvious that the traditional leaders, being part of the civil society and the rural community at large, welcome decentralization, as an empowerment process at the lowest level.

2.8. CONCLUSION

Mukyala – Mukiika (1998: 96.) argues that the debate as to whether traditional leaders can enhance or inhibit decentralization has been a subject of debate amongst many scholars (Nsibambi: 1995). The reasons given are such as the cultural diversity and the overlapping of administrative boundaries over the cultural boundaries. She also alludes to the argument that if decentralization is to enhance democracy, it should take into account why democratization processes have failed in Africa. Again the question arose, if decentralization is to promote economic development, then it should equally take stock of why previous projects have failed to transform Africa economically.

The value of the indigenous knowledge by traditional leaders is acknowledged. She posited that, traditional leaders symbolize culture and collective rights, thus, the goals of democracy and economic development enshrined in decentralization can only be realized with their active participation and involvement in local governance. Besides the above arguments, traditional leaders are believed to be essential for decentralization, democracy and development. There is a strong relationship between social stability and decentralization because if there is instability, the central government will have an excuse to run local affairs of the communities. Social stability empowers the people with the right to “ voice “ (Mukyala – Makiika: Traditional Leaders and Decentralization, 1998: 96).

It is the argument of this paper as indicated earlier that social stability can be attained where people have a self identity, are mobilized to participate in their own development and make decisions on a daily basis about their being and future life prospects. Such values can only be attained within the African set up and particularly in the countries analyzed above, if there are a strong operational modalities that allow traditional leadership to coexist with modern forms of government under a well articulated decentralization framework. The development in the cited countries pertaining to traditional leadership proves the argument that traditional authority can play a supplementary and stabilizing role in society. Traditional authority can strengthen local governance, eradicating the deficit that was caused by colonial governance as referred to by Dia (1996:43). Together traditional authority and modern local governance with the assistance of decentralization close the gap between citizen and administration / governance.

CHAPTER III

3. DECENTRALIZATION AND TRADITIONAL LEADERSHIP IN NAMIBIA

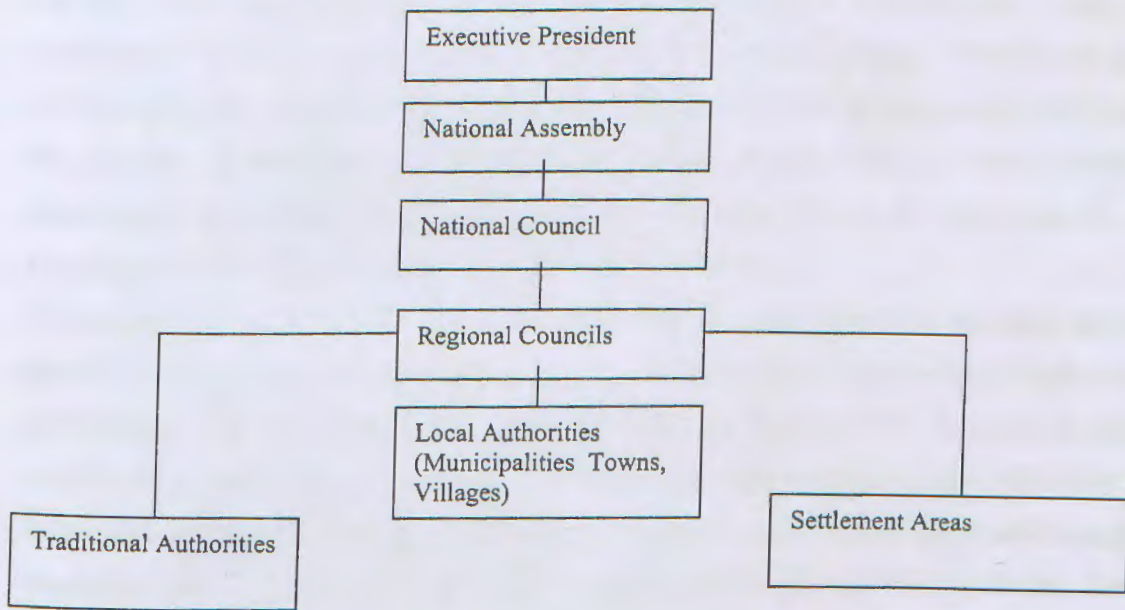
3.1. INTRODUCTION AND COUNTRY PROFILE

Namibia is a vast, sparsely populated country on the southwestern coast of Africa. It is bordered by Botswana and Zimbabwe in the east, South Africa in the south, Angola and Zambia in the northeast and the Atlantic Ocean on the west. The capital Windhoek, is located in the center of the country and had a population of approximately 182 000 in 1996. Presently just about 300 000 people live in Windhoek. The country's present total population, stands at approximately 1,8 million. The annual population growth rate is 3,0 %. Namibia, Africa's last colony, became independent on the 21st March 1990 after 105 years of foreign rule. Public Administration in Namibia comprises Central, Regional and Local Government. At the national level, the central government is made up of the Executive, Legislature and Judiciary. The President who is assisted by the Cabinet heads the Executive. The Legislature, which is bi-cameral, consists of the National Assembly with 72 elected and six nominated members for a term of 5(five) years. The National Council is constituted of two representatives from each of the 13 regions. The National Council reviews bills passed by the National Assembly and recommends legislation on matters of regional concern. The Judiciary is independent subject only to the constitution and the law. At the sub-national level regional councils and local authorities are established by the Constitution and an Act of Parliament. It should, however, be noted that whereas Local Authorities have been in existence in Namibia for a considerable period of time, they were only for the privileged white population. Regional Councils are new institutions ushered in by the Namibia Constitution of 1989. The country is divided into: 13 regions, each having a regional council consisting of directly elected Councilors representing constituencies in the region. Each region is divided into constituencies and the number of members of the regional councils varies between 6-10. There are 17 Municipalities, with 3 categorized as part I Municipalities and 14 as part II Municipalities. There are 13 towns; 15 villages and 23 proclaimed settlements and ± 50 unproclaimed settlements.

Local Authorities in Namibia carry out functions assigned to them by the Local Authorities Act, 1992 while Regional Councils are guided by the Regional Councils Act (Act 22 of 1992). The organogram of Government Institutions in Namibia is shown in table below.

TABLE 1

ORGANOGRAM OF GOVERNMENT INSTITUTIONS IN NAMIBIA



3.2. THE POLICY OF DECENTRALIZATION IN NAMIBIA

Namibia has come up with a decentralization policy to guide grassroots development in the country. This means that all operational structures at regional and local government level have to be synchronized to operate within this framework. This is important so that all the institutions complement one another and work towards the cherished goal of sustainable development.

Decentralization was already reflected in SWAPO'S (South West Africa People's

Organization) pre-independence vision of how Namibia should be governed after independence. It was mentioned and explained for the first time in the “ United Nations Institute for Namibia: Namibia – Perspectives for National Reconstruction and Development ”, published in Lusaka in 1986. In this publication particular emphasis was put on administrative rather than political decentralization.

Tötemeyer argues that ‘politico - administrative regionalization and the establishment of regional councils was not what SWAPO had envisaged in its pre-independence programme. The institution of regions and regional councils was the result of a compromise between SWAPO and opposition parties during the constitutional deliberations. All parties emphasized the need to unite and fully integrate the Namibian society. The former division of Namibia into eleven so-called homelands (Bantustans) based on ethnic/tribal lines, and the selective distribution of limited power to such entities while the final control was exercised by the Government of South Africa in Pretoria was vivid in the memory of the founding fathers of the Constitution” (Tötemeyer 1999: 95).

Consequently, it can be seen from the onset that decentralization in Namibia meant the devolution of agreed responsibilities, functions and powers to regional and local levels of government. This is because the political leadership realized that in order to promote participatory democracy and empower the local population to make local decisions about issues that affect them directly, the only way forward would be through a well thought out decentralization framework, which transfers political, administrative, legislative, financial and planning authority from the center to the peripheral institutions of governance.

With this in mind, the objectives of Namibia’s decentralization policy are to:

- 1) Extend, enhance and guarantee participatory democracy.
- 2) Ensure, enhance and safeguard rapid sustainable development,
- 3) Transfer real power to the regional and local authorities based on national ideas and values,
- 4) Improve the capacity of regional and local governments to plan, implement, monitor and manage delivery of services for their constituents. (MRLGH:

Policy Document: 1996)

- 5) Provide guidelines for the efficient, effective and equitable distribution and utilization of the scarce resources at all levels, and reduce state centralism and achieve more efficient, effective and equitable access to service by the most disadvantaged group of the society.

The political vision was given meaning when the founding fathers of the Constitution of the Republic of Namibia made decentralization one of the fundamental requirements that Namibia be divided in regional and local units. The boundaries thereof should be geographical only in order to dismantle the colonial homeland borders that were designed on tribal lines. The councils were to be the principal governing bodies with an executive and administration unit to carry out policies and resolutions of the council. These provisions constituted the constitutional basis for decentralization in the country and allowed regional councils and local authorities to exist as lower levels of government within the context of a unitary state. The powers, functions and duties of the regional councils and local authorities are provided for in two separate Acts: the Regional Councils Act of 1992 and the Local Authorities Act of 1992. The two Acts make provisions for the establishment of councils, qualifications and elections of councils, management committees of councils, employees of councils, powers, duties, functions, rights and obligations and the financial matters of the councils.

The Traditional Authorities Act of 1995 provides for the establishment of the traditional authorities, their designation and recognition as well as their relationship with the councils and the central government. The Council of Traditional Leaders Act of 1997 provides for the establishment of the Council of Traditional Leaders, which has the responsibility of advising the President on issues related to communal land as well as on the diverse customs and traditions prevailing in Namibia. The Decentralization Enabling Bill, tabled in October 2000, intends to abolish all government acts which are an obstruction to the decentralization process. It enables the transfer of resources to subnational levels effectively and efficiently. In summary, the following are the key elements of the decentralization policy:

- Decentralization may go through stages – but ultimately is aimed at devolution.
- Decentralization means the delegation of power to the regional councils and local authorities as independent entities.
- Some functions will be decentralized immediately, some intermediately and some in the long term.
- Decentralization will be phased in by region or local authority, by functions and within functions. There will be institutional and organizational change at both levels.
- There will be legislation regulating decentralization and policy rationalization.
- Decentralization to be defensible will have to be cost-effective. In this context it is believed that where people manage their own resources, where there is a direct relationship between revenue, expenditure and services, there will be less wastage and more responsibility and ownership which will result in feasible cost recovery.
- Where the technical cadre for services is localized, services will be cheaper.
- It is believed that when people see and have an influence on how their money is spent, it will be easier to collect revenue and introduce new revenue sources.
- The relationship between regional councils and local authorities is of non-subordination, mutual recognition and mutual autonomy. There is an emphasis on a functional relationship and on collaboration and co-operation between the two authorities.
- Regional councils share a coordinative and residual functional responsibility in lieu of central government.
- Financial resources or revenue base related to a decentralized function will be decentralized with particular function assigned.
- All personnel needed for the execution of a decentralized function will be made available to the region or local authority. There will be a regional mechanism to have responsibility for personnel matters at such levels.

3.3. Decentralization Enabling Bill and Traditional Leaders

One of the objectives of this study is to document the functions of traditional leaders so as to show that Decentralization has the capacity to empower the traditional leaders, rather than dis-empowering them.

“ The Namibian Constitution (Chapter 3) guarantees to all its people the right to participate in the polity and running of the state. The government as the agent of the state is committed to the principles of freedom and fundamental human rights as entrenched in the Constitution. The state cannot thus allow for the destruction of the democratic rules. This is conceivable when the practice of democracy become one-dimensional, when the gap widens between economic empowerment and social despair ” (Tötemeyer: 1999:11). Decentralization is bound to suffer and can eventually be condemned to fail if politico-administrative empowerment at regional and local levels is not matched by economic development, Tötemeyer continues to argue. To support the above statement it is worth quoting the U.N. Human Development. Report (1993: 66),

“ Decentralizing governance from capitals to regions, towns and villages – can be one of the best means of promoting participation and efficiency. Local officials and politicians become much more open to public scrutiny than national governments and become more accountable to the communities and individuals they are supposed to serve. The public development projects – be they dams, roads, schools or health programmes all become much more relevant and effective if the **communities** concerned have a real say in their planning and implementation.” It is significant that the reason these two statements have been quoted before the function of traditional leaders are analyzed, is because the intention is to point out the fact that traditional leaders are part of the communities at the grassroots levels and that, their fundamental human rights to participate in the governance of this country are also protected by the Constitution. Secondly, being the pillars and rulers of the local communities, they will for long a time to come play an important role in the rural local governance under decentralization.

- The Decentralization Enabling Bill intends to transfer human, financial and material resources to local and regional authorities in enabling

them to function efficiently and effectively. It provides for the clear separation of functions and services between the central, regional and local governments in their development planning and in their autonomy over their finances. Another aspect in the bill is a provision enabling the central government and its agencies to provide supervision, capacity – building, support and training to regional and local governments. Among others, the central government is tasked with the responsibility to coordinate the budgeting process.

- The Bill further states that decentralization in Namibia will be in accordance with the principle, values and norms of a unitary state. Under delegation, the central government reserves the right to withdraw any function, power or service from the lower levels if requested to do so, or if such institutions are considered incompetent in service delivery.
- Finally, the Bill also allocates to the regional councils and the local authorities the right to recruit, discipline and dismiss personnel through recruitment and disciplinary committees.

In order to analyze the Decentralization Enabling Bill, to determine its position regarding the role of traditional leaders, the functions, duties and powers of traditional authorities are to be addressed as stipulated in the Traditional Authorities Act, no. 17 of 1995, later in this chapter.

3.4. TRADITIONAL LEADERS IN NAMIBIA: BRIEF HISTORICAL BACKGROUND – 1884 – 1989

Namibia was a colony from 1884 to 1989, colonized first by imperial Germany and later by racist South Africa. In terms of local government, German interest in the territory was mainly officially restricted to the south of the then Police Zone (i.e. the whole Namibia with the exception of Owambo, Kavango and the Caprivi then). The areas north of the Police Zone were left to the administration and control of the traditional authorities (Keulder: 1998: 37).

The overall objectives of the administrative structure was to reinforce and protect the German Government supremacy and interest. This led to the conflict in the relationship between the colonizers and the traditional leaders, whose authority was undermined and threatened. To support this statement Du Pisani (1986:27) argued as follows:

“ Leutwein emphasized to the Africans that German colonial administration constituted a legitimate political system, bound by its constitution, rules and statutes. German political and economic interests and hegemony were entrenched by building a relatively comprehensive and efficient bureaucracy, sometimes supported by military action. Indigenous African groups, notably the Herero, Damara and Nama, challenged the constitutional and structural legitimacy of the German colonial system simply because it deprived them of their own perceived legitimacy to control their political and economic destiny.”

The colonizers introduced a divide and rule policy formulated in 1892, which was strengthened by the land policy, with the sole aim of expropriating the tribal land for white settlers and to resettle the indigenous population in the native reserves which were characterized by poor soils and rainfall. It is during these expropriation treaties that traditional authorities were fighting and destroying one another. This particularly took place in the areas south of the Police Zone. During 1908, the “ Ovambo regions” , situated north of the former Police Zone came under the German administrative control, which however did not interfere and alter the traditional form of local government. The Ovambo traditional administration was mainly used as a source, to supply migrant contract laborers to work on the white owned farms in areas south of the Police Zone. The chiefs cooperated as they benefited materially from the system (Keulder: 1998: 40). However, the migrant labor system undermined the authority of the traditional leadership. According to Töttemeyer:

“ The Germans indirectly influenced the gradual breakdown of traditional norms and authority because they made tangible efforts to guide the traditional community along the road to modernization” (1978:42).

Namibia was consequently occupied by the racist South African colonial regime from 1915 until Namibia gained its hard won independence on 21st March 1990.

Before independence, with the help and collaboration of some sympathetic traditional

leaders, the South African Authority continued with the divide and rule policy. To some extent the colonial authorities provided stability to those communities, which were in many cases nomadic. Through legislation, the Union Native Administration Act, No. 38 of 1927, traditional leaders were brought under the jurisdiction of the South African administrator, who was appointed as the Paramount Chief of the indigenous people of South West Africa (Keulder 1998: 42). The administration had powers to: appoint anyone as a captain or chief in charge of a tribe, location of native reserve; discharge such other part of the territory; determine or alter the boundaries of tribal areas or settlements; and generally exercise such political power and authority as a chief possessed under his/her own laws, customs and usages (Tötemeyer 1992:7). This process ceded in 1954, when the powers of the Governor-General were transferred to the State President. Later the position of a traditional leader, as understood by the respective communities, gave way to a system of functionary headmen who in fact, became the government officials and messengers, linking the colonial authority with the community at large. The colonial authority later relaxed the rules and the communities were allowed to choose headman according to their tradition. Many of the traditional leaders, Paramount Chiefs, Captains, etc. according to the Report of the Commission of Inquiry into Matters Relating to Chiefs, Headman and Other Traditional Matters (1991: 58), competed for the position of a headman mainly due to the remuneration and other benefits attached to it. This situation led to many of those who were seen to have been bought, to be labeled as "collaborators" and "puppets" of the colonial government. Albeit few were exempted. Because the government could appoint a Chief of "an area or of a tribe" one may even today still find in Namibia a person claiming to be a chief without an area of jurisdiction, for example in the Kunene, Omaheke and Otjozondjupa regions.

During 1946, the racist South African government attempted to incorporate South West Africa (Namibia) into the Union as one of its provinces. The incorporation attempt was opposed strongly by some traditional leaders, such as paramount Chief of the Herero, Chief Hosea Kutako. (Keulder 1998 : 43). In the same year the incorporation attempt was rejected by the United Nations / General Assembly and the country was placed under the United Nations Mandate and Trusteeship. In 1949, the National Party of South Africa introduced the South West Africa Affairs Amendment Act, No. 23 of 1949, which put Namibia under

the tutelage of an administrator, nominated by the Governor- General of South Africa. The year 1958 marked by the birth of the Owambo People's Organization (OPO) in Cape Town, to resist the South African fascist regime's illegal occupation of Namibia.

In 1962, through the establishment of the Odendaal Commission, eleven Bantustans or black ethnic "homelands" were introduced to Namibia. This meant that each ethnic group should administer and govern itself. Under the Odendaal dispensation farms were acquired from commercial farmers and were set aside for the extension of the communal land for the communities to settle in accordance with the "Homeland" Policy. The report pointed out that some traditional leaders lost their ancestral land to the colonialists who allocated it to others who accepted the government policy. This created tribal feuds over such land. The bone of contention was and still is today the land issue for pastoral and grazing purposes.

On 19 April 1960, SWAPO was born, as a political party and as a liberation movement in 1996, SWAPO launched the armed struggle against South Africa, the illegal occupier of Namibia which eventually led in 1973, to SWAPO's recognition by the United Nations as the sole and authentic representative of the people of Namibia. To counter this move, the colonial South African Government in 1975, established the "Turnhale Alliance and the Advisory Council" mostly consisting of traditional leaders playing a major ethnic representative role. United Nations supported SWAPO in terminating the South African mandate over Namibia by establishing the United Nations Council for Namibia in 1974 as the *de jure* authority for Namibia, albeit South Africa remained in effective control of the territory until Independence Day on 21st March 1990.

The involvement of traditional leaders in politics caused the present government numerous problems. This is because of the previous and present involvement of traditional leaders in party politics, especially where the subjects are divided along their party political loyalties. The traditional leaders were and are expected to be a -political or neutral as they are the heads of their whole tribe or their traditional community and the custodians of traditional culture. The political position of a traditional leader, especially that of the Chief, easily divides the community and causes the disadvantaged group to be neglected. However, what

is significant in this historical analogy is that traditional leaders although most of them of marginalised by colonial regimes, were heavily involved in the socio political and economic being of Namibia. Colonial masters could not ignore their existence. Thus, they misused them in their administrative systems solely for their own purposes. It is also with this in mind that the study indicates and emphasizes the need to harmonise traditional authority with present day government systems in Namibia. The intentions are to strengthen the link between traditional community and government which can , with minimum effort be done by involving traditional leaders who already have a strong umbilical link with their subjects.

3.5. POST INDEPENDENCE PERIOD 1990-2000 THE ROLE AND FUNCTIONS OF TRADITIONAL LEADERS IN NAMIBIA

After independence in 1990, Traditional Leaders received official recognition. The Traditional Authorities Act no. 17 of 1995, as amended by the Traditional Authorities Amendment Act No. 8 of 1997, was promulgated. It elaborates on the functions, duties and powers of these traditional leaders, as stipulated in section 10, subsection 1 (a)-(i) and subsection 2 (a)-(c). The research study mainly puts emphasis on chapter 10, section (1) and (2). Section 10 (1) spells out the functions of a Traditional Authority in relation to the traditional community which it leads and that it shall supervise and ensure the observance of customary law by the members of that community, and to promote peace, stability and welfare amongst that community. In particular the following aspects are clearly specified in the Act.

• FUNCTIONS

The functions of the traditional authorities shall be in relation to the traditional community which it leads due to the cultural and traditional diversity. Mainly, it shall promote peace and welfare among the members of the community, supervise and ensure the observance of the customary law of that community by its members (Traditional Authority Act 1995: section 10).

Particular commitment of traditional authorities should be to:

- a) ascertain the customary law applicable in that traditional community in consultation

- with the members of that community and assist in its codification;
- b) administer and execute the customary law of that community;
 - c) uphold, promote, protect and preserve the culture, language, tradition and traditional values of that community;
 - d) preserve and maintain the cultural sites, works of art and literacy works of that community;
 - e) perform traditional ceremonies and functions held within that community;
 - f) advise the Council of Traditional Leaders in the performance of its functions as provided under Article 102(5) of the Constitution or under any other law;
 - g) promote affirmative action amongst the members of that community, in accordance with Article 23 of the Constitution, in particular by promoting women to positions of leadership;
 - h) register practising traditional healers; and
 - i) perform any other functions as may be conferred upon their offices by law or custom.

- **DUTIES**

The duties to be performed by Traditional Authority members will include:

- a) to assist the Namibian police and other law enforcement agencies in the prevention and investigation of crime and apprehension of offenders within their jurisdiction;
- b) to assist and co-operate with the organs of the Government, regional and local councils in the execution of their policies by keeping the members of the traditional community informed of developmental projects in their area; and
- c) to ensure that the members of their traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems, for the benefit of all persons in Namibia.

- **POWERS**

In the performance of its functions and duties, the traditional authority shall have power to:

- a) raise funds and operate a trust fund on behalf of that community in accordance with the provisions of this Act;

- b) hear and settle in accordance with customary law disputes or in accordance to common law or statutory law.
- c) use on all its correspondence its own official stamp; and
- d) make customary laws.
- e) exercise such other powers as may be conferred upon it by statutory or customary law.

3.6. Political structures and processes affecting the institution

Traditional leaders have been most seriously affected by the postcolonial process of state-building. After independence, the Namibian state has been subject to structural re-organization. This saw the abolition of the ethnically based, second tier administration implemented by the South African Administration. This affected traditional leaders who had been part of these structures and hence part of the colonial state. In addition hereto tribal police forces were abolished. This has reduced traditional authorities' capacities with regard to policy implementation and law enforcement. The introduction of regional councils as de jure rural local government is perhaps the most significant aspect of postcolonial state-building affecting the institution of traditional leaders. Hereby, effectively all administrative powers previously allocated to traditional authorities have been transferred to the newly established institutions. Together with the Traditional Authorities Act, the introduction of regional councils effectively saw the subordination of traditional authorities to the structures of the state. This trend will be continued once the proposed structures of land administration are implemented. In no instance does any of the legislation dealing with rural, local administration make formal provisions for the inclusion of traditional leaders in the administration of the rural areas in that of supporting state structures. Section 3 subsection (1)(2) and (3) is clear in this regard:

“ (2) in addition to the functions specified in subsection (1), the members of a traditional authority shall have the following duties, namely –

- (a) to assist the police and other law enforcement agencies in the prevention of crime and apprehension of offenders within their jurisdiction;
- (b) to assist and co-operate with the organs of the central, and local government in the execution of their policies by keeping the members of

the traditional community informed of developmental projects in their area; and

- (c) to ensure that the members of their traditional community use the natural resources at their disposal on a sustainable basis and in manner that conserves the environment and maintains the ecosystems, for the benefit of all persons in Namibia.

Section 16(1)(2) of the Traditional Authorities Bill (22/02/2000) is equally clear about the relationship that ought to exist between traditional authorities and other organs of state:

“(1) In the performance of its duties and functions and exercise of its powers under customary law as specified in this Act, a traditional authority shall give support to the policies of the central Government, regional councils and local authority and refrain from any act which undermines the authority of those institutions as established by law. These legislative provisions indicate in no uncertain terms that Namibian government has adopted a subordination approach in its dealings with traditional leaders. There is clear emphasis that traditional authorities should at most play a supportive role to local authority and regional councils. This means that whatever initiatives they want to advocate in their areas of jurisdiction can only be acceptable if they are consistent with regional councils bye-laws as these supercede any other local law within the regions. Should there be conflict between traditional authorities and regional councils, the wishes of regional councils should certainly prevail. This operational limit needs revisiting through explicit provisions which give these leaders and actual role in regional councils so that whatever is discussed in these institutions, traditional leaders would be consulted prior to the major decisions made. This would eliminate any discord between the two institutions; discord that could undermine national unity and harmonious relations between government and rural communities.

CHAPTER IV

4. INTERPRETATION, PRESENTATION AND ANALYSIS OF DATA

4.1. INTRODUCTION

The main intention of this study is to document the role of traditional leaders under decentralization in Namibia. In order to undertake this task, the Omusati and Kunene regions were taken as case studies. Questionnaires, interviews and documentary research were used as a means of collecting data. In the methodology section of chapter 1 the samples for each of the adopted instrumentation techniques and the reasons thereof were indicated. To guard against non-response due to illiteracy, the researcher translated the question's into the respondents' mother tongue and read them out to the traditional leaders. However, before a presentation of the findings, it is important to provide an outline of the two regions and the ethnic groups that were focused on during the research. This helps to highlight traditional differences among the Namibian people and further buttress the need to harmonize these traditional manifestations with current forms of modern governance. It is significant to stress that the two regions have been selected because of their multi-ethnic character. People in those two regions are found scattered all over Namibia except the Kavango and the Caprivi Regions. This means that traditional practices in these two regions are replicated all over the country albeit with minimal differences here and there.

OMUSATI REGION

Omusati Region has a surface area of 13,638 km². It is bordered by Angola in the north, Oshana and Oshana Regions to the east and Kunene Region to the south and east. The region is relatively homogeneous in terms of climate, topography, drainage, vegetation, water resources and cultural composition (Regional Development Plan 2000).

Omusati region is one of the 13 regions of Namibia, which comprises one of the four regions mainly inhabited by the Owambo people. The Owambos are grouped into fourteen kingdoms, of which eight are found in northern Namibia and the other in southern Angola. The Namibian kingdoms are Uukwanyama (which extends into southern Angola), Ondonga,

Ongandjera, Uukwaluudhi, Ombalantu, Uukolonkazi and Eunda. The last two groups live in the same area and are more or less united in a kind of political symbiosis. The Uukwanyama and Ondonga have the largest populations, together comprising approximately 65 percent of all the Owambos who are estimated to be 49.8% of the total population in Namibia. (Cluver, 1991).

- The Political Structure:

Ideally, a hereditary chief, who is succeeded matrilineally within the ruling family, heads the tribal organization. The chief is assisted by a council of traditional councillors (headmen). The senior headman is in charge of a tribal district while junior councillors are in charge of tribal wards. This arrangement is a kind of a decentralized system.

- Political change

The tremendous rise of the SWAPO Party (South West Africa People's Organization) among the Owambo can, at least to some extent, be attributed to the process of social and cultural evolution within the traditional society. SWAPO successfully exploited the following three areas of culture change that resulted from the gradual abandoning of matrilineal institutions i.e. political, socio-economic and religious changes.

In the process of reorganizing society, four of the seven tribes had already lost their hereditary matrilineal tribal heads, thereby making room for new (untraditional, modern) political alignments to be formed. SWAPO capitalized on this political vacuum by offering itself as an alternative authority to the Owambo nation as a whole.

Internally, polarization soon occurred between SWAPO and the South African administration of Owamboland during 1958 as OPC, and then Owambo People's Organization which was later renamed to SWAPO. The intent was to establish itself as a national liberation movement, while the colonial planners of Owamboland's constitutional development showed no understanding for the waning traditional

authorities. To the detriment of the entire political process they restricted the formation of alternative structures. In so doing they politically estranged a large section of the modern elite (Töttemeyer, 1978), such as teachers, clergy and businessmen. The gap in the divergent approaches widened, and SWAPO engaged itself in a liberation struggle in 1966 that lasted until the implementation of the United National Peace Plan for Namibia in April 1989. SWAPO's victory in the independence elections can largely be attributed to the fact that, as a popular liberation movement in the absence of strong traditional leadership, it gained the overwhelming political support of the Owambo people. During the national elections in 1989, the organization drew 92,3% of the votes in "Owamboland", as against 46,3 % in Kavango, 14,4 % in Hereroland and only 10 % in Kaokoland.

Kunene Region

The Kunene Region, which is named after the Kunene River, has a surface area of 116 016 km². The Region is diverse in terms of climate, topography, drainage, vegetation, water resources and cultural composition and is characterized by aridity, especially the western sector. To the north the Region is bordered by Angola, to the east it shares a common boundary with the Omusati (and the Etosha National Park) and Oshikoto Regions, to the southeast with Otjozondjupa and Erongo Regions. The Atlantic ocean forms the western boundary of the Kunene Region. The topography is characterized by its remote desert coastal belt in the west, the central escarpment and the Etosha plains in the east (Regional Development Plan - 2000).

Kunene region is another of the 13 regions in Namibia. It is constituted of Hereros and the Himbas, commonly known as Kaokolanders, but the Damaras are the main inhabitants of the Kunene region. The Namas form a minority in this region.

The Herero follow the matrilineal and patrilineal grouping system. For many years during their migrations and nomadic movements, the various Herero-speaking peoples confined themselves almost exclusively to the social structures of their dispersed matrilineages and the politico-religious structures of their localized

partilineages. It was only after a more permanent abode was taken up that regional political structures under the leadership of non-hereditary headman were established. After this, the need for national leadership arose in order to address problems that affected the entire nation.

Kaokoland in Kunene Region is a big territory, sharing boundaries with Angola, Etosha and Owamboland. The Himba people like all other Namibian people have an interesting history but this would extend the borders of this research paper.

The Damaras and one fraction of the Namas i.e. the Swartbooi clan, live mainly in the Southwestern Kunene region, in the Northwestern part of Namibia. Historically, the Damaras consisted of a number of subgroups comprised of 14 clans. They represent about 7.5 % of the total population of Namibia.

The main intention of this study is to document the role of traditional leaders under decentralization in Namibia. In order to undertake this task, the Omusati and Kunene regions were taken as case studies. Interviews and documentary search were used as a means of collecting data. The data which is presented below is categorized into two sections as follows: Interview questions for politicians, administrators, academics and to traditional leaders in Omusati and Kunene Regions.

4.1. INTERVIEW QUESTIONS FOR POLITICIANS, ADMINISTRATORS AND ACADEMICS

Question 1

Of what importance are Traditional Leaders to you as a national leader?

The Minister of Regional and Local Government and Housing indicted that traditional leaders are the pillars of any nation as they represent the culture, tradition, norms and customs of society. These norms and values are considered to be the foundation of any

society. Thus traditional leaders act as a safeguards and custodians of these norms and values.

The Speaker of the National Assembly indicated that the importance of traditional leaders goes beyond mere safeguarding of traditional values. They also act as advisors to the President on issues pertaining to the culture of the society. Besides, they are also regarded as friends of the communities as they inspire and encourage these communities and leaders, to adhere to the demands of the constitution and represent the government system. The Deputy Minister of Regional and Local Government and Housing also concurs with the sentiments of the Speaker and the Minister. The four interviewees in the administrative and academic realm, also concur with the political interviewees. However, one of them added an important dimension that traditional leaders are vital as agents of social change and development.

From these responses, one notices that all respondents indicated that traditional leaders cannot be left out of the equation of governance in Africa. They are part of governance and Namibians should accept this as fundamental to the very existence of the nation. All human beings whether traditional in nature or from a modern society have a culture to protect. It is culture which moves society forward. It allows one to reflect on what was; what is; what would have been; and what ought to be in future. This type of thinking is critical for policy-making even in the present era. This is why even the President, as provided in the Constitution, wants to be advised on traditional culture so that he propels society in the right development direction within the workable confines of the diverse cultures the country has to contend with.

Question 2

How do you compare the position of traditional leaders:

- (a) before colonial time (1884)?
- (b) during colonial time? and
- (c) after independence?

- (a) The seven (7) respondents indicated that traditional leaders before colonialism were the custodians of the traditional norms and values of the community that they led. They protected the communities from external aggression and also made sure that land was fairly distributed amongst their communities. In summary, traditional leaders used to perform political, cultural, social leadership and security roles.
- (b) During the colonial era, the seven (7) respondents unanimously agree that the powers of traditional leaders were eroded. They were made subordinates to the colonial administration. Their power over land was reduced. In order to oppress and subordinate these leaders, the Minister indicated that the Germans cheated and corrupted traditional leaders by giving them liquor, weapons, tobacco and other manufactured items. This means that their powers, property and protection at the end got diminished and their role was minimized. Another variable which came in to the equation of diminishing the powers of traditional leaders, was the church. The Minister indicated that missionaries advised traditional leaders that they should be converted and in the process, the Germans would also protect them from the colonial South Africa, which was interested in occupying the land around the Orange River.

During South Africa's illegal occupation, some traditional leaders were used as informers of the South African regime, which intended to thwart the advance of the SWAPO guerilla movement which was waging war against the colonialists.

One of the respondents made it clear that these actions eroded the legitimacy of some traditional leaders, who were branded as traitors or sellouts. This stigma has remained even after independence. It is also significant to mention that one political interviewee indicated that particularly in the northern part of Namibia some traditional leaders who were appointed by the colonial South African government, were not truly in line of traditional leadership which caused tension between them and the authentic traditional leaders.

- (c) During the post-independence dispensation a strong feeling prevailed that the traditional leadership had to be reorganized, meaning that traditional leadership

has to be formally recognized by the independent government of Namibia. This led to the promulgation of the Traditional Leaders' Act to delineate their functions, powers, and duties.

The respondents indicated that traditional leaders played a meaningful role in charting the process of development of the Namibian people. The colonial process sought to minimize this role. It sought to misuse traditional leaders for its own benefit as instruments of dominating the very people they were supposed to lead. However, this had not permanently tarnished the image of these leaders.

Independent Namibia has realized the usefulness of the role of traditional leaders and promulgated an Act to guide their functions. Significant in this milieu of events is that the existence of the traditional leaders has remained in fact throughout the history of Namibia. If colonialists discovered that traditional leaders were powerful intermediaries who could facilitate their dealings with the African people, how could the African leaders of modern government fail to recognize this fact? However, the question still remains which should be answered in the process of this discourse: Are the traditional leaders – given sufficient powers to play a meaningful role in the development of the country?.

Question 3

Do you think they should play a role in the governance of this country? and if no why?

Explain

Interviewees indicate that the role of traditional leaders should include the following:

- a. Spreading the policy of national reconciliation amongst their subjects at the grassroots level.
- b. Keeping law and order in the country by assisting the police to arrest offenders
- c. Settling disputes among community members
- d. Maintaining community culture, customs and values.
- e. Communicating developmental aspiration of their communities to the

government.

- f. Prioritizing projects for their communities.
- g. Administer customary courts.

The responses indicate that traditional leaders should play a significant role in the present government system. Their roles should be control, judicial, administrative and development orientated. Fundamental is that they should play an important decision-making role not only in adjudication but even in strategic circumstances when decisions on what to include or not to include in development initiatives have to be made. This means that an appropriate working relationship between traditional leaders and contemporary forms of government has to be established to allow mutual coexistence. This and co-responsibility can only be materialized through a rationalized process of harmonized relationships.

Question 4

The government has adopted a policy of decentralization. How can we effectively make use of traditional authorities in the decentralization process?

Yes, under decentralization they are expected to:

- Help in registering births and deaths in rural areas and forwarding the records to the nearest authority
- Identifying development projects for their community
- Identifying areas where important developmental structures can be located e.g. schools, clinics and water points and also take care of government projects so that they are not vandalized
- Help to administer the water points in communal areas
- Play an advisory rôle on land, judicial matters and cultural issues

It is clear that even under decentralization traditional leaders should play an important advisory, administrative and decision-making role. This compels government to set up appropriate institutional structures that should facilitate the process of cooperative and decision-making. Such structures should enable modern forms of government to work side by side with traditional leaders to enrich the decision-making process through a diversified

input as requested in a plural democratic system.

Question 5

We are a democratic state constantly modernizing our policies, is it your opinion that traditional authorities should also modernize tradition?

Respondents interviewed indicated that they should modernize in line with the current socio-economic, and political dispensation. Specifically, they indicated that customary laws needed to be codified and recorded for the future generation. They should be trained in issues of democracy, so that they do not work at variance with the government of the day. However, one interviewee indicated that traditional leaders should be phased out. He argued that this is inevitable as more and more people are exposed to modern forms of living. One should be quick to indicate that the process of modernizing traditional authority should not be forced and rushed. It should be a result of inevitability as society changes qualitatively. It should be part of a smooth evolutionary process to maintain and transform traditional values in a systematic way as a natural phenomenon. To say that traditionality should be phased out is to miss the point and deny the people their own way of development. At any rate, who should phase out traditional leadership and on whose mandate? Phasing out means clearly indicating when to stop practising traditionality. However the two cultural values, i.e. tradition and modernity are intricately intertwined and have been so since the colonial days. People's social development will naturally determine how society evolves rather than come up with a policy to 'phase out'.

Question 6

Should the role of traditional leaders be limited to advisory tasks? Or can they assist the government in implementing government policies, please explain.

The interviewees responded as follows:

- Traditional leaders are working closely with regional councilors to register people for

identification cards

- To help in identifying vulnerable groups that will need government assistance during the time of drought
- They are also used by government to speak to their subjects about the dangers of HIV/AIDS, STDs which today is no longer a responsibility of central government only but of the community at large
- Sell or market government policies or programmes to the communities

7. How autonomous are the traditional authorities, if they are paid by the government?

All responded positively, that traditional leaders should be paid allowances to enable them to perform their daily tasks. The autonomy is not affected by this payment. This is true as government is for all and by all. It is its duty to remunerate those who are playing a role in serving society. They are working and need to be compensated. Saying their autonomy is affected is like saying that all civil servants support the ruling party because they are obliged to do so through the pay packages they receive from government. This is obviously a misplaced assertion and an erroneous way of looking at people and how they should exercise their democratic right to exist and made decisions about themselves.

8. Do you think that the Traditional Leaders Council meet the expectation of the constitution e.g. on the land issue?

All interviewees responded positively to these questions. They indicated that traditional leaders, are already playing the following roles under decentralization:

- They are working with regional councillors on registration of people for the provision of identification documents
- They administer water points in rural areas
- They identify vulnerable groups that need government assistance during the time of drought

- They have been mobilized by government to speak about the dangers of HIV/AIDS
- They are involved in an advisory body for regional development

However, for them to do these things effectively, many must be empowered by decentralization.

Question 9

What do you consider are the roles of traditional leaders who are the custodians of the land?

All interviewees agree that traditional leaders should play a role in the allocation of land. They have compassion and knowledge about land and can easily identify the community members who need land. It is their conviction that land is a fact embedded in traditionality. This has been their role for a long time and it should remain as such and if otherwise only evolve systematically out of it.

Question 10

What role can they play in the allocation of land according to your opinion?

Traditional Leaders should participate in all policy matters. They are part of the people at the grass roots level who expect them to be involved.

Question 11

On what policy matters should government consult traditional leaders?

It is general knowledge that traditional leaders are powerful members of their society and who through education and information should influence their communities positively in line with the government policies.

The assertion here is that government should not only consult them on traditional issues but on all issues that affect society.

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Question 12

The influence of traditional leaders on their communities is still so strong that they could mobilize it positively or negatively.

Respondents indicate that there is a good rapport between traditional leaders and regional councils. At this moment they are expected to work together in identifying the development potential in the different communities. Their intention is to only mobilize the communities positively in realizing government development programmes.

Question 13

How can traditional authorities and regional councils work together towards development of their communities?

There is consensus that they play a vital role in representing the community but, there is a need to develop their capacity even more, to strengthen their role within the society. The general response is that traditional leaders should play a role in the activities of regional councils. These modern structures, in fact, should not function outside the support of traditional leaders. This means that the two should be harmonized to facilitate mutual coexistence.

4.2. QUESTIONS TO TRADITIONAL LEADERS IN OMUSATI AND KUNENE

REGIONS

QUESTION 1

The role of traditional leaders before independence as outlined by traditional leaders in the Omusati region included:

- Till 1884 the traditional leaders were ruling their people under their jurisdiction, before the colonialists came to interfere with the traditional leadership

- They conserve the nature e.g. people were not allowed to kill animals unless it was hunting time, they were not allowed to cut trees for poles without permission from the tribal authority. Nature and animals were preserved. The community was obeying well
- They were responsible almost for everything before the regional councils got in place. They were responsible for court cases, issuing of permits e.g. to obtain a hunting rifle, they were allocating plots, for school, church and hospital buildings. They allocated land for habitation and cultivation. They took care of the welfare of their cattle
- They identified development needs, mobilized the community for malaria control, fed pensioners and old aged in poor rural areas
- They promoted culture, educated the youth about the traditional cultural values and norms
- Maintained customary courts

Those outlined by traditional leaders in the Kunene region include:

- Guardian of traditional and cultural heritage
- They were responsible for customary courts by holding hearings where crime, murder and adultery were committed
- They were taking care of community problems by identifying community needs such as where schools, clinics, were needed
- They were the means of communication between the people and the colonial administration
- They were in charge of tribal districts by directing the people where to live, where to

cultivate, where to graze and also were responsible for communal land allocation.

- They were collecting tribal levies
- They looked after security
- They practice civil and criminal justice
- They promoted local language

These role identification is similar to that given by political and administrative interviewees.

QUESTION 2

What role can traditional leaders play under decentralization in their regions?

They are expected to play the following roles:

Omusati region

- Form committees to discuss matters of concern
- Lead according to legislation
- Promote development, education and culture
- Assist in financing clean-up operations from trust fund
- Work with political council to identify community needs
- Educate communities on social problems

Traditional leaders in the Kunene region indicate the following:

- Grant grazing rights to new communities
- Assist with drought relief
- Promote culture
- Perform customary marriages
- Register births and deaths
- Assist in maintaining security – crime reduction

- Promote peace and welfare

This indicates that traditional leaders feel they should be part and parcel of the whole governance system. They should play a significant role in the daily administration of rural communities. This is not to say they should act in competition with decentralized structures but offer visible support in a clear and well-provided participatory framework to enhance complementarity.

QUESTION 3

What is the role of traditional leaders after gazetting since 1995?

Traditional leaders have been playing their roles as stated in the Traditional Authorities Act.

Omusati region

- Land allocation
- Cultural maintenance
- Project identification
- Nature conservation
- Protect customary laws
- Operate with the police to curb crime
- Issue permits to occupy land /property

The roles after gazetting include:

Kunene region

- Advising the President on land
- Advising regional councils and local authorities on social and development issues
- Applying the provisions of the Traditional Authorities Act.

The roles indicated above are predominantly administrative and advisory, yet there is a need for comprehensive decision-making roles where traditional leaders participate in planning the development process.

QUESTION 4

What does their formal recognition mean for rural, local governance/administration?

Those of the Omusati region indicated that formal recognition means that they will be able to:

- Improve peoples living standards
- Express happiness on being recognized and having power to work independently
- Move around communities to discuss development issues
- Feel empowered to participate in decision-making
- Can meet with other traditional leaders to share cultural developmental issues

In the Kunene region emphasis was on that formal recognition makes them happy:

- to have power to exercise customary law
- to work cooperatively with regional councils
- to have knowledge on local issues and participating in solving local problems

QUESTION 5

How in your opinion should the relationship be, between the traditional leaders and the regional councilors.

Omusati region

The position of traditional leaders and councilors must be made clear and be distinguished. Traditional leaders and councilors need to be informed where the duties of traditional leaders begin and end.

- They need to coordinate their activities. It seems as if in some constituencies and regions there is no coordination and cooperation between the regional councilors and traditional councilors. Some regional councilors are accusing them of having being colonial collaborates and should not even receive allowances from the state
- The government is expected to come forward and explain in clear terms the relationship between the councilors and the traditional leadership. The traditional leaders represent all the people under their jurisdiction
- There should be cooperation on development issues

Kunene Region

- The traditional leaders must cooperate with regional councilors to solve the community problems. The regional councilors must attend, listen and respect the

views of traditional leaders because the traditional leaders are the guardians of the people who are living far away from the nearest government administrative infrastructure

- The relationship must be improved and politics must be avoided when it comes to traditional issues
- Cooperation needed in social and development issues
- Some traditional leaders are disturbed by some political councilors who politicize development

QUESTION 6

Have you heard of decentralization and what do you think of it?

Omusati region

- Yes, decentralization brings government closer to the people
- People can take their own decisions
- Financial resources can be divided accordingly
- Empowers the people
- Encourages the people to govern themselves
- Eliminates traveling to capital city for authorization
- However, they recommend that the relationship between traditional leaders and regional councils must be examined and traditional leaders should have their own finances

Kunene region

- Yes, decentralization is acceptable and needed
- It encourages self development and sustenance
- Problems can be solved quickly

- Coordination will take place between traditional and political leaders
- Decentralization will promote culture language and customs
- Decentralization promotes ownership and self reliance

QUESTION 7

Do you think the government should pay traditional leaders and why?

Omusati region

- Yes, but allowance should be increased
- Because traditional leaders fill in the gap where the government cannot make ends meet, i.e. traditional leaders are with the people in rural remote areas where the government officials and offices are not

Kunene region

- Same as above
- Yes, traditional leadership is constitutionally accepted and therefore must be remunerated

QUESTION 8

How can traditional leaders assist the government in economic development ?

Omusati region

- Promote development projects, mobilize local people to participate in developmental issues

4.3. Analysis of Highland Growth Plan

- Provide information to government and communities about development
- Mobilize people to participate in development
- Identify community needs
- Coordinate development

Kunene region

- Coordinate development
- Advice community to participate in development
- Raise funds from community
- Give advice and guidance to government

4.3. Analysis of Regional Research Data

Data Analysis:

From the responses given above, it is clear that all respondents interviewed confirm the need for the involvement of traditional leaders under decentralization. Traditional leaders can be seen as the rightful cultural leaders of communities. Their development was severely tampered with by both colonial German and South African regimes between 1884 and 1989. However, independent Namibia under the government of SWAPO has seen it as appropriate to recognise traditional structures, to give communities the rightful identities they deserve.

The strengthening of traditional structures are not intended for customary laws preservation only. It goes beyond that. These leaders should also be seen as agents of change and development. Thus, the SWAPO government has sought to harmonize traditional roles and those of modern forms of government. This harmonization is intended to facilitate the mobilization of people at grassroots levels to participate in the country's development endeavors. It is significant to indicate that the promulgation of an Act of Parliament to act as a guide for the role of traditional leaders in Namibia is ample evidence of government's understanding that these leaders should inherently have a role to play outside the formal structure of modern government. This gives them appropriate legal status and continued existence despite a change in government.

Respondents, interviewed, are in general agreement that the present decentralization policy does not seem to sufficiently recognise the importance of traditional leaders. This is because there is no section in the new Decentralization Bill which articulates the need to involve traditional leaders in decentralization. What is evident, are references to their involvement in the development committees. This, traditional leaders feel should be revisited to allow them to participate in a meaningful way.

CHAPTER V

5. CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

Before colonial occupation, traditional leaders were the leaders of independent communities although they were interacting with other communities. The colonial administration made traditional leaders and their communities part of their administration albeit in different ways. During the era, traditional leaders in the central and southern part of the country lost their status as leaders in the true sense of the word. With independence, traditional leaders claimed their rights back. The Constitution, indeed, contains two provisions that implicitly guarantees traditional authorities. They are reflected in the Traditional Authorities Act of 1995 and The Council of Traditional Leaders Act of 1997.

The Traditional Authorities Act consolidated the situation although the Act failed to provide the necessary clarity in view of the inherited traditional structures.

The role of traditional leaders under the decentralization policy is minimized at the moment. Their role is continued representative participation in development committees of the region's constituencies and settlement areas. In the region it is also minimal where out of a wide range of Regional Development Coordinating Committees, traditional authorities are only involved in three. This minimized role seems to suggest that there are a number of questions that should be debated about these functionaries:

- Should the role of the traditional authorities under development be defined more explicitly?
- Should they be confined to customary matters only?
- Should they be integrated into the modern forms of governance? Or
- Should they be phased out?

The Decentralization Enabling Bill has rightfully devolved powers, duties and functions from central government to regional and local entities and hopefully will not deprive the traditional authorities of what they have been doing. The Decentralization Enabling

Bill does not include the constitution of regional development coordinating committees. Their institution by the Ministry of Regional and Local Government and Housing is however a good beginning. How successful they will be has still to be determined. In fact, current radical discourse posing itself as the democratic discourse, indicates that hereditary traditional institutions are incompatible with the principles of elective representation and open access to political leadership on which modern democracies are based. It therefore says that if traditional leadership is over epitomized, it could amount to "parallel rule" divided by sovereignty and a dangerous dualism which modern African states can still not afford. Such an argument is inherently centralist and devoid of any practical truth, as traditional leaders are not seeking political power but social power in their traditional enclaves, which can be accomplished by the action of cultural heritage of their communities, participate in the socio-economic upliftment, as well as ensure peace, tranquility and neighborliness in their areas of jurisdiction.

With this in mind, it is evident that the decentralization bill falls short in assigning particular functions to these leaders in the current development paradigm which advocates for a bottom-up approach. It is necessary to stress that traditional leaders can be very important factors in the decentralization process. They can use their popular base to give legitimacy to the local leadership and to mobilize resources at the local level to supplement the necessary revenue for the regional government. They, can above all, stimulate participation in decision-making at various levels through both print and electronic media. These can all be possible if they are culturally, politically and economically organized and are able to stand autonomously in relation to the state and other political groups who may wish to exploit their popularity for political gains. Consequently, this study provides a set of recommendations that would enhance the role of traditional leaders under decentralization in Namibia.

5.2. RECOMMENDATIONS

The following recommendations are made:

1. That the decentralization policy should be revised to include an explicit section, which explains the involvement of traditional leaders in the decentralization process. Thus,

the policy should indicate government's commitment to mobilizing traditional authorities to participate fully in the decentralization process as important stakeholders. Although decentralization can be seen as a concept embedded in modernity, its focus on development means that government should allow people at the grassroots level to participate in their own development, which would be difficult to do outside the existing traditional structures. It is significant to point out that interviewees indicated that traditional leaders are currently seen as more trustworthy than political leaders at the local level. These leaders have been tried and tested and their umbilical link with the communities they represent, cannot be cut and forgotten overnight. A prudent government is one, which uses this advantage for both government and community benefit.

2. The participation of all traditional leaders in all regional development committees is essential. Their inclusion should pervade all the functions of the Regional Development Co-ordinating Committees including those of planning for development, implementation and evaluation. It makes little sense to include them in one function and deny them the chance to follow through what they have been invited for. Government's policy implies that traditional leaders should play a key role throughout the policy process. This should not remain as an idealized policy but be translated to a concrete substantive and procedural policy framework which will guide the participation of these leaders.
3. A coordinating structure such as the constituency coordinating office should be established to enable both traditional leaders and regional councilors to familiarize themselves with the activities of those institutions, as provided for in the enabling acts. This would allow both of them to appreciate each other's roles, harmonize their activities and participate meaningfully in the nation's development agenda. The common saying: "united we stand and divided we fall" should provide a sufficient motivating factor to establish such an information exchange orientated structure. In fact, why should regional councils and other forms of modern authority, want to centralize the powers of directing development while at the same time embracing the

'spirit and word' of decentralization? This answer can only be riddled with ambiguity, and fear of the unknown and failure of the human race, in most instances, to practice what it preaches.

There is more value in appropriately defining the role of traditional leaders in the decentralization process. This intention should not only benefit traditional leaders but also the government of the day and the people at grassroots level. It would be a mistake for political leaders to try and politicize traditional leaders so that they serve one political party only at the expense of others. This would deny the whole purpose and importance of these authorities. The exercise of political power should be left to the politicians. Appropriate information should be rendered to traditional leaders this issue. This however will not happen overnight as all human beings are basically politically motivated. The paramount nature of their positions in the communities should enable them to transcend simple political affiliation. After all, their existence should continue unruffled regardless of which political party forms a government

Training programmes particularly in politics, government institutions, traditional leadership, service provision, ethics and accountability, decision-making and conflict resolution should be arranged for traditional leaders. This can be done through the Center for Public Service Training (CPST) at the University of Namibia. This will enable them to realize the need to be impartial actors when discharging their duties. This training could be arranged for different regions so that traditional leaders in each region are given the chance to interact and share ideas on the content of the training programme they are exposed to and on the need to be politically neutral. Ultimately, a conference on traditional leadership could be arranged and resolutions passed on the way forward.

4. Traditional leaders should be remunerated adequately to enable them to perform their traditional and customary functions effectively in a form of allowances. They should get a monthly allowances consistent with their rank and duties that they are expected to perform. This means that appropriate evaluation of their duties should be made and compared to that of regional councilors and other government functionaries.

Some may argue that if they are made to command an allowance they would be susceptible to politicization by the ruling party. An argument to the contrary is that old Members of Parliament from opposition parties and all civil servants regardless of political affiliation command government salaries but are not politicized. Thus, the mere fact that they are paid by government does not mean that they would automatically support the ruling party. In fact, to maintain their political neutrality as suggested in (3) above there would be a need for a provision in the Traditional Leaders Act of 1995 that traditional leaders who become politicians should vacate their traditional leadership position. As long as they wish to serve as traditional leaders then partisan politics should be out for them. Once this is done, administratively, the Botswana model could be used as a guide. It is through this approach that traditional leaders can act freely without any undue political pressure. Their interest would be only in line with maintaining social harmony and motivating their subjects to participate meaningfully in local and national development endeavours in line with the content and spirit of decentralization policy initiatives.

To some this may appear to be a biased advocacy for the continued existence of traditional leadership in Namibia and not only a mere existence but that where they have added power. In the contrary this is a statement of the reality of the Namibian society that it is not politically prudent to diminish the power of traditional leaders at the moment. Namibian society is a dual society, which straddles traditionality and modernity. It still attaches great importance to its traditional leaders and trying to undermine this fact would be to undermine society itself and commit political suicide. That government realizes this and continuously tries to amend the Traditional Authorities Act giving these leaders more power is a realization of this reality. This paper only strengthens this fact and gives both the law makers and interested parties information as to how harmony can be struck between forces that are apparently out of step with modernity and those that purport to be embedded in the latter. In this way, Namibians may evolve without state pressure and overtime may outlive the strong traditional sentiments that they have.

5. Administrative units must be created in the political constituencies occupied by administrative staff to coordinate development with traditional authorities, as part of the activity of the regional councillors office.

6. Frequently educational programs and consultations are of urgent necessity to inform the traditional leaders about traditional governance and its relationship to government as a whole.

Appendix 1

• Population of the regions

REGION	POPULATION	PERCENTAGE
Caprivi	90 402	6.41 %
Erongo	55 376	3.93 %
Hardap	66 488	4.72 %
Karas	61 156	4.34 %
Kavango	116 818	8.29 %
Khomas	167 057	11.85 %
Kunene	64 011	4.54 %
Ohangwena	179 840	12.76 %
Omaheke	52 782	3.74 %
Omusati	189 899	13.47 %
Oshana	134 836	9.56 %
Oshikoto	128 729	9.13 %
Otjozondjupa	102 526	7.27 %
TOTAL	1 409 920	100 %

Source: The People of Namibia - Malan J.S. (1999)

ETHNIC GROUP	PERCENTAGE
Owambo	49.8 %
Kavango	9.3 %
Damara	7.5 %
Herero	7.5 %
Whites	6.4 %
Nama	4.8 %
Coloureds	4.1 %
Caprivians	3.7 %
San	2.9 %
Rehoboth Basters	2.5 %
Tswana	0.6 %
Other	0.9 %
TOTAL	100%

Source: The People of Namibia - Malan J.S. (1999)

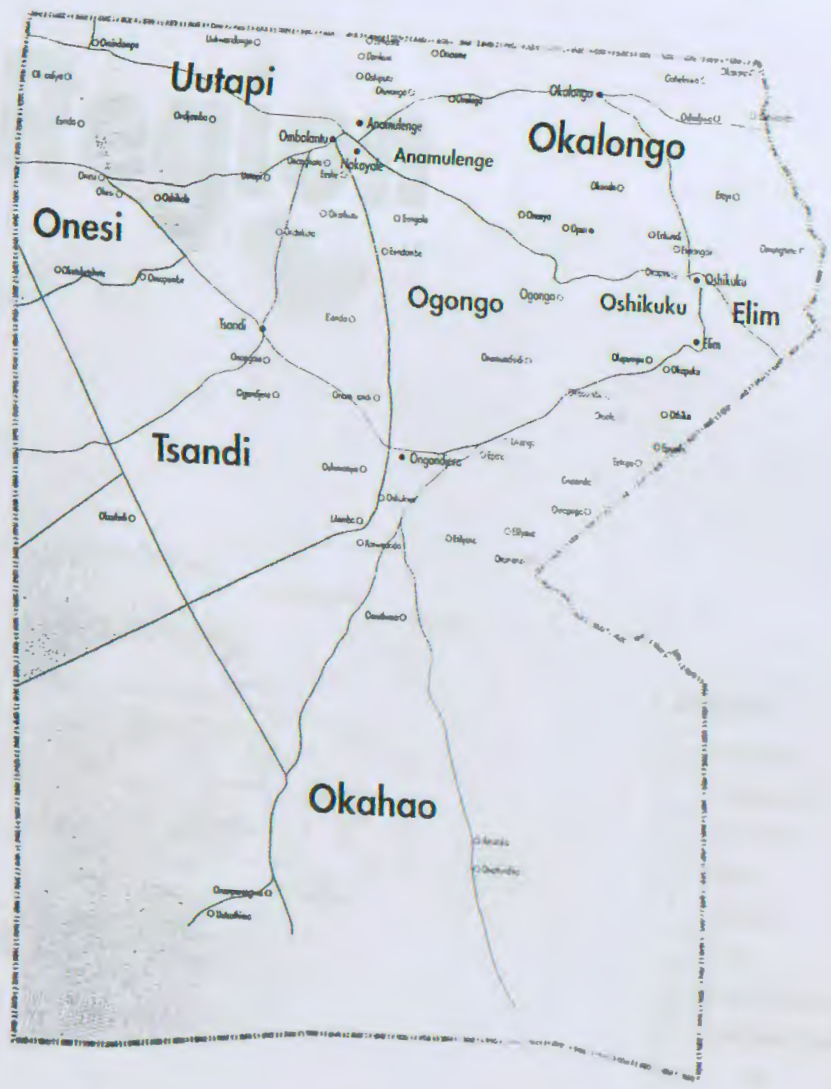
Omusati Region



Legend

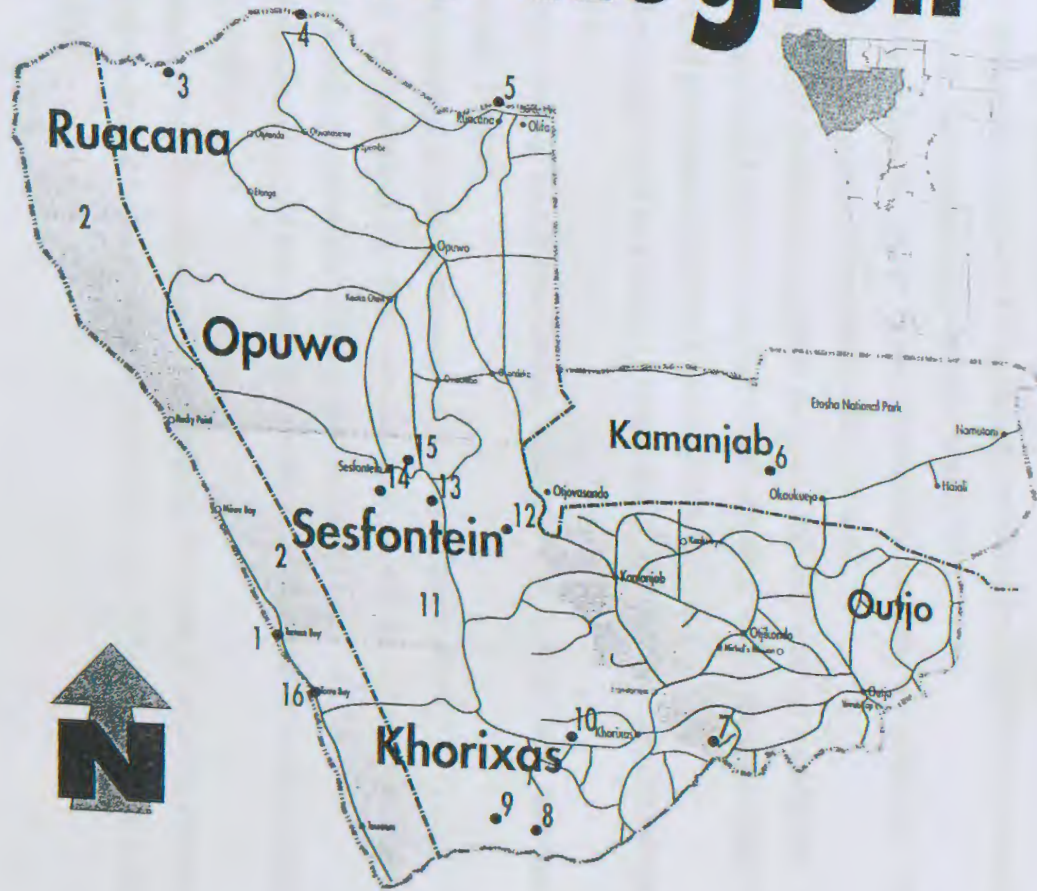
- Major towns
- Smaller towns
- Place names
- Roads
- Railways
- Rivers
- Regional boundary
- Constituency boundaries

0 10 25



Source: Namibia Regional Resources Manual
(Friedrich Ebert Foundation – 1993)

Kunene Region



Legend

- Major towns
- Smaller towns
- Place names
- Roads
- Railways
- Rivers
- Regional boundary
- Constituency boundaries

0 50 100

Source: Namibia Regional Resources Manual
(Friedrich Ebert Foundation –1993)

Appendix 4

POLITICIANS AND ADMINISTRATORS INTERVIEW QUESTIONS

1. Of what importance are traditional leaders to you as a national leader?
2. How do you compare these roles with that which existed
 - (a) before colonial time (1884)?
 - (b) during colonial time?
 - (c) after independence till 1995 and after?
3. What in your opinion is the current role of traditional leadership in this country?
4. Do you think they should play a role in the governance/administration of this country? If yes, why and if no why not? Explain.
5. Namibia is a democratic state which is constantly modernizing its policies, in your opinion should traditional authorities also modernize tradition?
6. Government has adopted a policy of decentralization, how can we effectively make use of traditional authorities in the decentralization process?
7. One of the roles of traditional leaders is to advise the President on land issues. Should the role of traditional leaders be limited to or can they assist the government in the implementing of government policies, please explain.
8. Traditional leaders are paid by Central Government in your opinion how does this affect their autonomy?
9. In your opinion should traditional leaders have a major role in land distribution in communal areas? Explain.
10. On what policy matters should government consult traditional leaders?
11. The influence of traditional on their communities is still so strong that they could mobilize it positively or negatively what is your comment?
12. How can traditional authorities and regional councils work together towards development of their communities?
13. If decentralization is to ensure democratic participation in issues of Local Governance, in your opinion are traditional leaders playing a meaningful role in representing their people at grassroots level?

Appendix 5

QUESTIONS FOR TRADITIONAL LEADERS AND REGIONAL GOVERNORS

1. What was the role of traditional leaders before independence?
2. What role can traditional leaders play under decentralization in their regions?
3. What is the role of traditional leaders after gazetting since 1995?
4. What does their formal recognition mean for rural local governance/administration?
5. How in your opinion should the relationship be, between the traditional leaders and the regional councilors?
6. Have you heard of decentralization and what do you think of it?
7. Do you think the government should pay traditional leaders and why?
8. How can traditional leaders assist the government in economic development?

Thank You

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Ministry of Regional and Local Government and Housing

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