

Traditional leadership and governance

Draft White Paper

The *Traditional Leadership and Governance Draft White Paper* (hereafter the *Draft White Paper*) was launched by the Department of Provincial and Local Government on 29 April 2002. Provision was made for a consultation process, which was originally envisaged to have been completed by 22 November 2002 but which was extended to 15 January 2003.

This *Draft White Paper* is the third phase of the White Paper programme on traditional leadership and institutions. Following a Cabinet decision of May 1998, it was originally envisaged that the White Paper programme would consist of the following phases:

- (a) the status quo report (SQR) phase;
- (b) the discussion document phase;
- (c) the Green Paper phase (which was not proceeded with); and
- (d) the White Paper phase. Submission of the *White Paper* to Parliament was to be followed by rationalising national and provincial legislation applicable to traditional leadership (the vast majority being of pre-1994 origin).

The SQR phase was initiated in May 1998 and completed in June 1999 with the co-operation of the six provincial directorates concerned. The aim was to determine the actual situation pertain-

key points

The *Draft White Paper* emphasises the support role of traditional leadership by indicating that it should:

- facilitate community involvement in the IDP processes;
- support municipalities in identifying community needs;
- support municipalities in implementing development programmes;
- enter into service delivery agreements with municipalities regarding the provision of services to rural communities; and
- promote indigenous knowledge systems for sustainable development.

ing to traditional leadership and institutions in the various provinces at that time (1998).

The draft discussion document was launched on 11 April 2000 and was followed by a wide-ranging consultation process at both national and provincial level. A well-attended and representative National Consultative Conference in Midrand concluded this process in August 2000.

The vision of the institution of traditional leadership in the *Draft White Paper* is that it is primarily the guardian of custom. Traditional leadership must also support the three spheres of government and promote development within that context. The *Draft White Paper* also deals with the relationship between traditional leadership, governance and development, as well as with institutional systems and the prevailing legislative complexity.

Traditional leadership is a schedule 4 functional domain within the concurrent legislative competence of provinces and the national Parliament. The *Draft White Paper* emphasises that the true role of traditional leaders is of a customary and ceremonial nature. However, certain non-customary functions may – in the exclusive discretion of a national government department, a provincial government department and an individual local government structure – be allocated to traditional leaders. In addition, traditional,

community and regional authorities are to be disestablished, and a new style community authority (with only a customary role) will be established in terms of legislation still to be enacted.

In terms of the envisaged national policy traditional leadership will only have the following roles in future:

- Governance and developmental role: Traditional leadership is to promote socio-economic development, good governance and service delivery (through the advisory role of the Provincial House) and support the three spheres of government.
- A ceremonial role as well as a customary role and functions (the last two will be tabulated in legislation).

In the context of the promotion of socio-economic development, good governance and service delivery, it is stressed that there is a:

...renewed effort by Government to focus on improving living conditions in rural areas in an integrated manner to bring about sustainable development. This initiative is being driven through the integrated sustainable rural development programme (ISRDP) which seeks to ensure an integrated approach to rural development. These initiatives call for greater clarity regarding the role of the institution of traditional leadership in rural areas in relation to government at all levels, given the fact that, today, the democratic state through the three spheres of government, has assumed authority and responsibility for the provision of infrastructure and basic service(s).

The *Draft White Paper* emphasises the support role of traditional leadership by indicating that, within the local sphere the institution should, through its custom-based structures:

- facilitate community involvement in the IDP processes;

- support municipalities in identifying community needs;
- support municipalities in implementing development programmes;
- enter into service delivery agreements with municipalities regarding the provision of services to rural communities; and
- promote indigenous knowledge systems for sustainable development.

Future responsibilities of traditional leadership will include:

- carrying out functions in support of one or more spheres of government, but only if empowered to do so by explicit delegation, assignment or an agency agreement (which would be in the sole discretion of the individual national or provincial department or individual municipality);
- functions referred to in the *Local Government White Paper* (e.g. judicial functions in the context of traditional courts); and
- customary functions.

Traditional leaders and institutions will not as of right be entitled to the allocation of roles and functions. In a given province some traditional leaders might be given certain functions, while other leaders in the same province might not be allocated any functions. In another province traditional leaders may not be allocated any powers at all.

As regards the finalisation of the policy process, an advisory committee has been appointed by the Minister of

Provincial and Local Government with the aim of evaluating all submissions received and recommending possible changes and/or amendments to the *Draft White Paper*. The final White Paper was to have been submitted to the Cabinet by the end of January 2003, but it now seems probable that the submission date could be March or even later. National and provincial legislation giving effect to the final policy position will be enacted thereafter.

Traditional leadership is seen in the *Draft White Paper* primarily as the guardian of custom.

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