



ENGAGEMENT WITH HIGH LEVEL PANEL AT ROUND TABLE ON TRADITIONAL LEADERSHIP

	QUESTIONS	ANSWERS
1	As traditional leaders, what do you see as the value that the institution adds, or can add in the future, to these areas of South African life?	<p>➤ Promotion of Moral Values</p> <p>It is well-known fact that Traditional Leaders do promote moral values; promote the culture of respect for all humanity. Those traditional communities that practices koma (initiation schools) taught the young people how they should behave and preserve themselves. Traditionally, every child looks at the elderly as their own parents while parents see all of them as their children. The recognised of the institution, will reduce the need of the massive police personnel as we do now.</p>

➤ ***Custodianship of African Culture and Customary Law***

African culture and practices are in danger of obliteration but the Traditional Leaders seem to be succeeding to keep it intact despite lack of support from government. Behavioral change will help the institution to bring back hope to the people.

➤ ***Safety of the Community***

Members of the Traditional Communities are respecting their Traditional Leadership institution more than they do to government officials and as such, people do not just do as they want, because they know the authority is there to reprimanded any perpetrator of crime, hence the level of crime is low in traditional communities compared to urban areas. This happened despite the fact that there is no act governing our courts as we speak now.

<p>2 In particular, what do you see as your role in respect of other levels of government: national, provincial and local?</p>	<ul style="list-style-type: none"> ➤ Effectively, in rural areas the Traditional Councils were supposed to be playing the role of the Ward Committees and the Senior Traditional Leader playing the role of the Ward Councillor. ➤ On the departmental line functions, Traditional Leaders should be the link between the departments and their respective traditional communities. ➤ The fact that the institution serves as legislature, Executive and judiciary it proves that is the only hope of the rural communities. Any foreigners including Government officials if are not known to the institution, often becomes difficult for them to be generally welcomed. <p>As indicated above, the CPF should the substructure of the Traditional Council even though they work directly with the SAPS.</p>
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<p>3 Focusing specifically on legislation, in your view has the <i>Traditional Leadership and Governance Framework Act</i> been implemented effectively and has support been forthcoming from the national, provincial and municipal spheres of governance?</p>	<p>No, it is not. Today as we speak most of the King's Councils if not all. Many Traditional Councils are still not been established as required, primarily because government, which promulgated the said Act, failed to allocated budget for these structures even though the issue of the budget is spelled out in the Act. (Act 41 of 2003 Part 2. 9(1)(b)(i)</p> <p>It is even worse that government implements some of the legislation selectively and without uniformity. One province because of its size gets the budget to establish Traditional Councils while the other does not. One King gets annual budget of over <u>R56'000'000.00 (fifty million rand)</u> and others don't get a cent in their Traditional Council's bank account that comes from government, instead government manages the money that the Traditional Councils have collected from its community. It is heart-breaking that other Kings don't even have extra rooms for the guests while one King is allocated more than</p>
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		<p><u>R1'000'000'000.00 (one billion rand)</u> for a palace. Government is act impartially in this regards.</p> <p>NB: To date as we speak even the NHTL failed to convene a biannual meeting with the Kings and Queens since 2010 despite the fact that the legislation says they must.</p> <p>Section 14 of National House of Traditional Leaders Act No.22 of 2009 stipulates the following: <i>"The House must, on a biannual basis, hold a meeting with Kings and Queens in the country to discuss – (a) the activities and programmes of the House; (b) matters of interest to Kings and Queens; (c) matters relating to service delivery and development of traditional communities; and (d) any other business identified and proposed by either party and agreed to by both parties."</i></p>
4.	How does the current (and proposed) legislation, in general, impact on your role as traditional leaders? Are the	It is affecting the institution negatively in the sense that they are not addressing our cultural practices.

	<p>legislation aligned to customary law or in conflict with this system?</p>	<p>In the future, it is going to be even worse if government could succeed to impose the SPLUMA legislation, which made it very clear that government is taking power from Traditional Leaders and giving it to Municipal Councils. The fact that Ward councilors earn more than Traditional Leaders speaks volume.</p> <p>There is no guarantee that in future government will implement the legislations because there is no Service Level Agreement (SLA) between Government and Traditional Leaders.</p>
5.	<p>What are your roles and powers <u>under</u> customary law? What are your roles and powers <u>over</u> the development of customary law?</p>	<p>1.1 Power <u>UNDER</u> Customary Law</p> <ul style="list-style-type: none"> ➤ Under customary Traditional Leaders conduct Dikoma and they preside over traditional courts. ➤ Kings are supposed to enthronement and dethronement senior traditional leaders, Senior Traditional Leaders have the power to appoint the Headmen who subsequently be recognised by government.

		<ul style="list-style-type: none"> ➤ Power to determine when it is the right time to go and plough fields and time for harvesting. ➤ Protect and preserve the environment and nature. ➤ Protect and preserve culture, tradition and customs. <p>1.2 Powers <u>OVER</u> the Development</p> <p>Traditional Leaders are supposed to be on top of things during the process of legislating customary laws because customary law falls under their competence. Unfortunately, government decide without Traditional Leaders inputs.</p>
6.	Staying with the question of customary law, what are the rules and key principles in customary law that apply to:	
	<ul style="list-style-type: none"> • Allocation of land? 	Traditional Leaders do issue Permission to Occupy (PTO) letters either for residential or business purposes even for development.
	<ul style="list-style-type: none"> • Accountability by the traditional leader to his/her community? 	They convene annual meetings to give the reports of their activities and to table financial (audited) reports. This must be compulsory through the legislation

<ul style="list-style-type: none"> Decision-making on issues that affect the rights or interests of members of the community 	<p>Municipalities have in place the process of developing what was supposed to be IDP; unfortunately, this process does not give communities sufficient time to reflect thoroughly what has to go into the IDP final document.</p> <p>The process has been politised loss its original intention. The institution of Traditional Leadership should be included in the process not just be consulted.</p>
<ul style="list-style-type: none"> Consultation – is it one of the mechanisms in use for achieving the above? Who is consulted? 	<p>Traditional Leaders, Traditional Councils and the community at large are supposed to be consulted, but this is not happening by in large only political affiliates enjoy the process.</p> <p>NB. In most cases the representatives of the municipalities come with predetermined documents of IDP just get the endorsement.</p>
<ul style="list-style-type: none"> The nature of the land rights vesting in people who occupy and use land over generations. 	<p>The land referred to here, is the communal land and there is in place the Communal Land Rights Act which is also not implemented effectively to ensure that the communal land is administered properly.</p> <p>Most of this land is in custodianship of government. Traditional Leaders are administering them without any law.</p>

	<ul style="list-style-type: none"> The allocation or alienation of land held under the jurisdiction of the traditional leader to people from <u>outside</u> the community (e.g. business or development projects) 	Any person irrespective of where they comes from as long as they comply with the requirements laid adopted by the community, do get piece of land usage. Permission to occupier (PTO) is the popular method of land use right allocated to our people.

