

The Role of Women in Traditional Leadership with Special Reference to the Valoyi Tribe

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ABSTRACT The social history of life in South Africa depicts women as victims of various kinds of abuse, namely, verbal, emotional, physical and psychological. Women experience abuse at the hands of their partners, employers and tribesmen. They are abused racially, culturally and economically. The male-dominated culture and systems of traditional leadership constitute gender oppression. The inclusion of women in traditional leadership structures should not be seen in the context of transforming the institution of traditional leadership but the development of customary law in line with the Constitution. The aim of this article is to show that women are equally capable of ascending the throne of power by becoming leaders of their respective tribes. With the advent of democracy, the traditional authorities have the authority to develop customary law to uphold the principle of equality, which is enshrined in the Constitution.

INTRODUCTION

Chapter 2 of the 1996 *Constitution of the Republic of South Africa* recognizes equal human rights for all, and also the rights of cultural, religious and linguistic communities. Furthermore, the Constitution makes provision for the recognition of the role of traditional leaders. Since 1994, there have been major developments towards the recognition of the equal rights of South African women. However, these changes are cosmetic in nature, in that they exist “on paper” only (Bentley 2005:49).

The old age tradition meant that daughters regardless of their position (including, being the first born of a hereditary chief) in the line of succession could not become chiefs (Matemba 2005:1). Traditionally, women were not allowed to participate in the traditional leadership. Women were treated as minors and did not take part in decision-making by their communities. With the advent of democracy, there is harmonisation of male primogeniture with gender equality, especially in chieftaincy succession (Mireku 2010:1).

Gender and development issues represent an important subject in community planning and development. This is because the involvement of women helps address some components of community planning which are responsive, such as, mixed land-use, accessibility, mobility, safety and security, distribution of services, com-

munity buildings and infrastructure, housing, water and sanitation, land tenure, livelihoods, employment and transport (Un Habitat 2012, Malaza et al. 2009). The above view is supported by Ramaboka (2014: 108) when she asserts that the governance role that traditional leadership plays in traditional communities reflects the slogan “government for the people”. If the government needs to give meaning to the essence of governance by the people, it should strengthen monitoring mechanisms to ensure accountability as provided for in legislation. Hassan and Silong (2008) in Mensah et al. (2014: 209) conclude that female leaders normally practise leadership styles such as shared, participatory, collective, collaborative, cooperative, democratic, fluid and connective leaderships. At the core of this style of leadership, one witnesses practicing stewardship and service, supporting relationships, empowerment, and commitment to individual development.

METHODOLOGY

The research mainly extracts upon the Constitutional Court of South Africa’s decision that overturned the customary law rule of male primogeniture in a dispute as to whether a woman could succeed her late father as a tribal chief. The researcher read several articles on traditional leadership, court proceedings of cases on traditional leadership disputes and collected data

through interviews from the court proceedings of the *Shilubana and Others versus Nwamitwa* 2008 (9) BCLR 914 (CC).

RESULTS

The study focused on the role of women in traditional leadership with a special reference to the outcome of the case of *Shilubana and Others versus Nwamitwa* 2008 (9) BCLR 914 (CC). Since the South Africa's constitutional dispensation is based on the premise that all existing laws are subject to the Constitution of the Republic of South Africa 1996, including the African customary law, and that all laws are limited only by the Constitution, the study found that the male primogeniture rule is of no power because the Constitution takes into account the following: promotion of gender equality, constitutional democracy and justice. The study found that women were equally capable as men to preside over traditional and tribal issues affecting their respective communities. They were equally capable of providing leadership and determine how development should be shaped in their communities.

DISCUSSION

Traditional leadership is as old as the human race. The African people knew no other form of government, except through the institution of traditional leadership itself. Traditional leaders are the pillars of the community. However, with its long history of existence, the traditional leadership has received its most brutal attacks based on the perception that it is seemingly, an anti-women institution (Mabuyakhulu 2007). Precisely, the institution of traditional leadership was founded and grounded in the patrilineal system, whereby only the firstborn male children were afforded the opportunity to succeed their fathers. During the apartheid and colonial era, gender designation played a major role in all the racial groupings, and women were defined as inferior to men. The Black Administration Act of 1927 treated black women, regardless of age, marital status and ability, as minors (Siquwana-Ndulo 2013).

It is important to mention that no other institution is under such attack as traditional leadership. The common cause of the problem seems to be the self-centeredness of men. It is common

knowledge that cultures around the world have changed the traditional leadership to suit their own needs. It is disgusting to learn that despite attainment of democracy in many countries of the world, the traditional leaders continue to fulfill their own selfish ambitions by claiming that the patrilineal system may be discriminatory but the discrimination itself is fair. In saying so, they allege that it intends to sustain and protect the leadership of the clan from distortions (Thobejane 2008:2).

Contrary to common notion that traditional leadership is patriarchal in nature, it is a fact to mention that God created traditional leadership for both, males and females. In Genesis 2:26-27, the Bible says that:

"Then God said, let us make man in our image, in our likeness, and let them rule over the fish of the sea and the birds of the air, over the livestock, over all the earth, and over all the creatures that move along the ground."

So God created man in his own, in the image of God he created him; male and female he created them. God blessed them and said to them, "be fruitful and increase in number, fill the earth and subdue it. Rule over the fish of the sea and over every living creature that moves on the ground."

In truism and fairness, the role of traditional leadership has never ever been assigned to man alone. It was, in fact, a shared responsibility. That stance has not changed. In defense of this stance the Bible says that *'In the Lord, however, woman is not independent of man, nor man is independent of woman. For as woman came from man, so also man is born of woman.'* (The New Testament and Psalms, 1 Corinthians 11:11). Maluleka (2002:24) also paints a very beautiful picture of the women when he points out that:

Women are special for many reasons; they are created in the image of God; they were created to co-rule with men. They were created from the rib, and not from the dust. They are the final work of the Creator. They are the crown of His creation, and the last born of His creation.

It is a fact to recognize that women have been and still remain the custodians of traditional leadership. It is practically impossible to ignore the contributions made by the Modjadji dynasty. The Kingdom of Modjadji is a rural community of over 150 villages. It is situated in the Limpopo Province of South Africa. Modjadjis are renowned and revered for their ability to make rain

for their people. Her people are the Balobeduba Ga Modjadji. Despite the fact that the institution is male dominated, the Kingdom of Modjadji is well managed. In Ghana, female traditional leaders and for that matter, the queen mothers play significant roles in the traditional setup of the Akan society (Mensah et al. 2014:207). They further contend that a queen mother in the Akan society is recognized as the co-ruler in the traditional political system and has joint responsibility with the king or chief to run the affairs of their communities.

Solomon (2014) argues that the appointment of female traditional leaders instills fear among traditional communities, in that the line of succession will be eroded and the existence of traditional leadership as an institution can become irrelevant.

Changing the Face of Traditional Leadership: Appointment and Installation of Female Hosi

In South Africa, the Constitution as the supreme law implicitly recognizes and protects customary law via the right to culture (Bennett 2004: 91, 141). Van der Waal (2004: 5) is of the view that traditional leaders perceive the powers allocated to them during the transformation of political institutions in the country as being limited, but at the same time they realize that the institution needs to be brought into synchronization with the new political system. For instance, according to the new legislation, traditional councils will in future have to be elected and need to be more representative of the gender composition of the population.

Succession disputes form an integral part of the history of traditional leadership in Southern Africa (Bekker and Boonzaaier 2008: 1). According to Mabuyakhulu (2007: 7), for a long time, the system of traditional leadership has been beset by the scourge of succession disputes. Almost all dynasties in the world, have suffered at the hands of this challenge. The upshot of this is that the institution suffers immensely from the resultant perception that it is an unstable institution. This infers that the institution needs to interrogate the process upon which suitable individuals are identified to lead traditional communities. One cannot consolidate the hard-earned freedom and constitutional gains and move forward to their rightful place as far as traditional leadership is concerned if one does

not choose visionary leaders to lead them in the transformation of traditional leadership and the restoration of the dignity that it deserves.

Succession to the position of the Rain Queen is matrilineal and is usually passed on to the eldest daughter. In sharp contrast to the Balobedu culture, the Xitsonga culture did not allow women to play any meaningful and significant role as far as the institution of traditional leadership was concerned. This practice meant that daughters regardless of being the firstborns in the line of succession could not become *tihosi* (chiefs). They were treated as perpetual minors, inferior and subhuman beings. Succession to be *Hosi* was governed by the customary rule of male primogeniture or succession. Mireku (2010: 1) argues that:

Until the South African Constitutional Court's landmark decision in Shilubana, courts had utilized the concept of male primogeniture as the overarching defining rule in resolving customary law disputes of intestate in South Africa. With the entrenchment of the Bill of Rights in the 1996 Constitution, however, the constitutional validity of male primogeniture has been persistently called into question in a number of cases that have come before the courts.

Male primogeniture has often been challenged because arguably it discriminates unfairly on the grounds of age, birth and most conspicuously, gender.

In 1968, Hosi Fofeza, of the Valoyi traditional community in Limpopo, died without a male heir. At the time, succession to be *Hosi* was governed by the customary rule of male primogeniture or succession. Therefore, Felia Tinyiko Shilubana, his eldest daughter was ineligible to be *Hosi*, despite being of ripe age. She was denied her rightful place in society in the name of culture and tradition. Instead, Hosi Fofeza Nwamitwa's younger brother Richard succeeded as *Hosi* of the Valoyi tribe.

Before the death of Hosi Richard Nwamitwa, the Valoyi Royal Family unanimously resolved to bestow chieftainship in the next succession to Felia Shilubana. However, Hosi Richard died before the installation of Felia Shilubana. Apparently, Sidwell Nwamitwa brought an urgent application to the highest court of the land to derail and interdict Ms. Shilubana's installation as *Hosi* of Valoyi tribe. The battle between Shilubana and her cousin Sidwell came about be-

cause customary law did not allow Shilubana to succeed her father, Chief Fofeza Nwamitwa, when he died in 1968, solely because customary law classified women as minors and that was why her uncle, Hosi Richard, replaced her late father, and ruled until his death in 2001. Both the High Court and the Supreme Court of Appeal ruled in favour of Mr. Sidwell Nwamitwa, because the process of pronouncing Ms. Shilubana heir to the chieftainship was contrary to customary law.

The Constitutional Court ultimately decided the battle of the chieftaincy. The judgment in favour of Shilubana is a contribution to the development of the customary law in South Africa because it affirms that courts should adopt decisions by communities living under the customary law. It also affirms that the development of customary law in South Africa is in line with constitutional values. In a nutshell, the Valoyi tribe took it upon themselves to change the way the women are viewed within their community. Mireku (2010: 4) cites that:

Customary law is living law and will in future inevitably be interpreted, applied and, when necessary, amended or developed by the community itself or by the courts. This will be done in view of existing customs and traditions, previous circumstances and practical needs, and of course the demands of the Constitution as the supreme law.

The Shilubana judgment is not only extremely revolutionary and historic but is a landmark or transformational judgment celebrating gender equality in the *vuhosi* succession battles. Furthermore, the judgment means that customary law is a flexible, living system of law, which develops over time to meet the changing needs of the community. Mireku (2010: 4) further maintains that:

...Indigenous law is a dynamic system of law that has values and norms, but which values and norms continue to change and evolve within the context of the Constitution. For this reason it is important for the rule to develop with the changing expectations of those who look to it as the embodiment of the values and aspirations of the customary law, community and its citizens.

Shilubana's court victory empowers all the traditional leaders to effect changes or developments which are necessary to keep indigenous law in line with the dynamic and evolving fabric of the egalitarian society as envisioned in the

South African Constitution. In reality, the judicial recognition of a female chief in any traditional community should be understood within the context of gender equality, not only in this country, but also across the entire African continent (Mireku 2009: 6)

The Significance of the Judgment to Women in Traditional Leadership

Great strides have been made since 1994 in recognizing the equal rights of South African women. The ruling in favour of Shilubana in the *vuhosi* dispute is seen as victory over patriarchal tribal traditions by the Valoyi tribe in particular, and Vatsonga in general. Interestingly, the Constitutional Court had acknowledged the power of the traditional authorities to develop customary. The ruling has made Nwamitwa a phenomenon. Considering the fact that the case changed the face of traditional leadership, one can say that the Valoyi tribe made history by developing the customary law that permits a woman to ascend the throne of *vuhosi*. The bedecking of a leopard's skin around the shoulders of Hosi Nwamitwa II is, indeed, a symbol of authority. Her inauguration during the much-celebrated coronation marked the much-anticipated inclusion of women in the male dominated institution. In her acceptance speech, Hosi Nwamitwa II made a strong commitment that she was ready to lead her people and follow in the footsteps of her father, Hosi Fofeza Nwamitwa, and to deliver services to her subjects with precision and distinction.

The Nwamitwa traditional authorities through their Hosi Nwamitwa II would be equally capable of performing their duties with no discrimination against any gender. The rise of Hosi Nwamitwa II of Valoyi tribe is in itself a spectacular achievement given that Vatsonga have one of the worst records as far as traditional leadership was concerned. With women at the helm of traditional leadership, female participation in different community projects would definitely increase.

Hosi Nwamitwa and her subjects also stand a better chance to benefit from the Modjadji dynasty if they happen to encounter some problems as far as the smooth running of their traditional affairs is concerned. As already mentioned, the Modjadji dynasty has long history of successful traditional leadership.

The researcher has no doubt that Hosi Nwamitwa II and her royal council, through her political connections will be able to attract investors to do business in the Nwamitwa tribal area. For example, the Nwamitwa community and their neighboring communities will benefit from the proposed Nwamitwa Cultural Village and Museum. The envisaged cultural village will showcase the Nwamitwa culture and history by promoting their living heritage, while the historical museum will display elements of the Xitsonga culture and artifacts. The cultural village will encompass a museum that will promote both, the tangible and intangible cultural heritage of the Valoyi community. This initiative is expected to create hundreds of jobs for the residents of the 32 villages. Furthermore, the Valoyi Tribal Authority under the leadership of Hosi Nwamitwa II has also established the Xitsavi Youth Centre with the aim of enhancing the social and economic well-being of poor communities, in particular that of the young people of Nwamitwa communities. The Centre trains youths in life and work skills.

More importantly, the appointment of Felia Shilubana as Hosi Nwamitwa II implies that she will preside during the sitting of the tribal council. She will also preside during the settlement of disputes in the tribal court of which in the past it was unheard of because the customary law did not allow women to preside over such matters. This infers that the role of women in the traditional leadership has been significantly advanced. Furthermore, Hosi Nwamitwa II will eventually preside over sensitive issues such as land claim disputes.

CONCLUSION

From the discussion in this paper, it can be seen that the role and status of women in traditional leadership have drastically changed for the better. The inclusion of women in traditional leadership calls for the citizens to stand together as one nation.

In conclusion, it is advisable to call upon the government to explore ways and means in which the traditional institution can be engendered and the possibility of legislating traditional leadership structures in a gender sensitive manner. Perhaps, it will be rather fair to say that the Constitution of the Republic of South Africa should not only recognize women as traditional leaders

but also encourage their full participation. They should serve and play a very significant role in ensuring that decisions taken in the tribal courts are respected.

RECOMMENDATIONS

In order to have a successful and well-run institution of traditional leadership the citizens must:

- ♦ Address gender discrimination and harmful cultural practices.
- ♦ Identify key areas, such as integrating women in traditional leadership.
- ♦ Identify possible areas of legislation and reform some customary laws.
- ♦ Advocate effectively for women to claim their rightful representation in traditional leadership
- ♦ Identify guidelines for female traditional leaders for successful conflict management, prevention and resolution.

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