

of which will be to:

- develop and enforce integrity and ethical conduct on the part of traditional leaders;
- resolve disputes between traditional leaders; and
- deal with complaints against traditional leaders.

Conclusion

The following are some highlights. The Draft Constitution:

- recognises traditional leadership and its functions;
- spells out principles to be observed by traditional leaders in the exercise of their roles and functions;
- obligates traditional leadership to maintain structures that are apolitical and non partisan;
- sets clear limits to traditional leaders' authority;
- sets up a body to settle their disputes and enforce integrity and ethical conduct.

The LRF has pamphlets and leaflets in English, Shona and Ndebele on a broad range of legal topics. If you would like further information and legal advice please contact your nearest LRF Centre.

LRF Centres:

LRF - Bulawayo: Amalungelo House, 94 Fort Street, Bulawayo.

P.O. Box 1131, Bulawayo. ☎ 09 68926/74091, ✉ blpc-admin@lrf.co.zw

LRF - Harare: 3rd Flr, Blue Bridge, Eastgate, Cnr S Nujoma St/R Mugabe. Road,

P.O. Box 918, Harare. ☎ 04 251170-4, ✉ hlpc@lrf.co.zw

LRF - Gweru: 4th Floor, First Mutual Centre, Robert Mugabe, Gweru.

P.O. Box 1470, Gweru. ☎ 054 221665, ✉ glpc-admin@lrf.co.zw

LRF - Masvingo: 15 Robertson Street,

P.O. Box 290, Masvingo. ☎ 039 264563/265872, ✉ masvingo.centre@lrf.co.zw

LRF - Mutare: Suite 8, 2nd Floor, Old Mutual Building, Herbert Chitepo Street,

P.O. Box 1242, Mutare. ☎ 020 63263, ✉ mutare.centre@lrf.co.zw

National Office: No. 16, Oxford Road, Avondale, Harare



UNDERSTANDING THE DRAFT CONSTITUTION

*A series of leaflets to inform you of the contents of the
Final Draft Constitution*

No. 8

Traditional Leaders

Introduction

Chapter 15 of the new Draft Constitution recognises traditional leadership under customary law. The current Constitution does not contain a detailed section on traditional leaders. A traditional leader is responsible for performing the cultural, customary and traditional functions of a chief, headperson or village head, as the case may be, for his or her community.

Principles to be observed by Traditional Leaders

Traditional leaders are subject to the Constitution and the laws of Zimbabwe. They must exercise their roles in accordance with the functions of traditional leaders that are set out by the Constitution.

They must:

- treat all persons within their areas fairly and equally;
- not be members of any political party or participate in partisan politics;
- not act in a partisan manner;
- not further the interests of any political party or cause; and
- not violate the fundamental rights and freedoms of any person.

Functions of traditional leaders

Within their areas of jurisdiction, the functions of traditional leaders are to:

- promote and uphold the cultural values of their communities and, in particular, promote sound family values;
- preserve the culture, traditions, history and heritage of their communities, including sacred shrines;
- facilitate development;
- administer communal land and protect the environment;
- resolve disputes amongst people in their communities in accordance with customary law; and
- exercise any other functions conferred or imposed on them by an Act of Parliament.

Traditional leaders have no authority, jurisdiction or control over land, except communal land, or over persons outside communal land, unless the cause of action arose within the area of that traditional leader's jurisdiction. Traditional leaders are not subject to the direction or control of any person or authority unless provided for by an Act of Parliament.

Appointment and removal of traditional leaders

An Act of Parliament must provide for such matters as appointment of Chiefs, their removal, as well as creation and resuscitation of chieftainship. This must be done by the President, on the recommendation of the Provincial Council of Chiefs, through the Minister responsible for traditional leaders and in accordance with the traditional practices and traditions of the communities concerned.

The Act must provide measures to ensure that all these matters are dealt with fairly and without regard to political considerations and provide measures to safeguard the integrity of traditional institutions and their independence from political interference. The provisions of the Act must be in accordance with the prevailing culture, customs, traditions and practices of the communities concerned.

National Councils and Provincial Assemblies of Chiefs

An Act of Parliament will establish a National Council to represent all chiefs in Zimbabwe and Provincial Assemblies of Chiefs to represent chiefs in each of the provinces of Zimbabwe except the metropolitan provinces.

So far as is practicable, the various traditional leaders in each province must be equitably represented in the National Council of Chiefs.

Elections of the President, Deputy President and members of National Councils of Chiefs must be conducted by the Zimbabwe Electoral Commission. Each Provincial Assembly must elect Chiefs to represent the province in the Senate in accordance with the Electoral Law. The President and Deputy President of every Council of Chiefs are elected for a term of five years and are eligible for re-election for one further such term.

Functions of National Council and Provincial Assemblies of Chiefs

The Council of Chiefs will function to:

- protect, promote and develop Zimbabwe's culture and traditions;
- represent the views of traditional leaders and to maintain the integrity and status of traditional institutions;
- Protect, promote and advance the interests of traditional leaders;
- consider representations and complaints made to it by traditional leaders;
- define and enforce correct and ethical conduct on the part of traditional leaders and to develop their capacity for leadership;
- facilitate the settlement of disputes between and concerning traditional leaders; and
- perform any other functions that may be conferred or imposed on it by an Act of Parliament.

An Act of Parliament must ensure that the National Council of Chiefs and all Provincial Assemblies of Chiefs are able to carry out their functions independently and efficiently and that persons employed by these structures carry out their duties dutifully and impartially.

Integrity and Ethics Committee

An Act of Parliament must provide for the establishment, membership and procedures of an Integrity and Ethics Committee of Chiefs, the functions