

RESOLUTION 34

THE ROLE OF TRADITIONAL LEADERS AT ALL LEVELS OF GOVERNMENT

**ACCEPTED BY THE NEGOTIATING COUNCIL ON
11 NOVEMBER 1993**

The Negotiating Council hereby resolves as follows:-

1. General

- 1.1 All matters pertaining to indigenous law/customary law shall be regulated by statute.
- 1.2 Traditional leaders shall have the following roles at local, regional and national levels:

2. At Local Level

- 2.1 Traditional authorities shall continue to exist and exercise their functions in terms of indigenous law, as prescribed and regulated by enabling legislation.
- 2.2 There shall be an elected local government which shall take political responsibility for the provision of services in its area of jurisdiction..
- 2.3 The (hereditary) traditional leaders within the area of jurisdiction of a local authority shall be ex-officio members of the local government.
- 2.4 The chairperson of any local government shall be elected from amongst all the members of the local government.

3. At Regional Level

- 3.1 There shall be a House of Traditional Leaders in provinces with existing traditional authorities, composed of traditional leaders and elected by an Electoral College of that Province which shall meet when necessary, for the purposes set out in the paragraphs hereafter.
- 3.2 All legislation pertaining to traditional leadership; traditional authorities; indigenous law and custom, including any other matter having a bearing thereon, shall in a particular province, be referred to the House in that Province for its consideration and comment. In its comment the House shall also indicate whether it supports such legislation or not. Such comment shall

not be withheld for a period longer than 30 days from the date of receipt.

- 3.3 The comments of the House, if any, shall be submitted to the Provincial Legislature for it to consider whether to proceed with such legislation or not.
- 3.4 Should the House in its comment express opposition to the legislation, such legislation if passed by the Provincial Legislature shall be delayed for 30 days before final approval by the Provincial Legislature.
- 3.5 Appropriate procedures shall be framed by the Provincial Legislature to facilitate the above provisions.
- 3.6 The number of persons to be elected to the House of Traditional Leaders in each province will be determined by legislation/resolution of the Provincial Parliament in consultation with the Traditional Leaders within 6 months of the establishment of such Parliament.

4. At National Level

- 4.1 There shall be a Council of Traditional Leaders, composed of not more than 20 traditional leaders elected by an electoral college composed of the various Houses of Traditional Leaders at provincial level, which shall meet when necessary, for the purposes set out in the paragraphs hereafter.
- 4.2 Legislation and constitutional amendments pertaining to traditional leadership, traditional authorities, indigenous law and custom, shall be referred to the Council for its consideration and comment. In its comment the Council shall also indicate whether it supports such legislation or not. Such comment shall not be withheld for a period longer than 30 days after date of receipt.
- 4.3 Passage of legislation through the National Assembly and Senate shall not be delayed whilst proposed legislation is referred to the Council as set out above. To ensure that undue delay is avoided, proposed legislation shall be referred to the Council simultaneously with its submission to the Senate.
- 4.4 Should the Council in its comment express opposition to the legislation, such legislation if passed by the National Assembly shall be delayed for thirty days before final approval by the National Assembly.
- 4.5 The Council of Traditional Leaders will be entitled to advise the Government from time to time on any matter which it considers to be relevant to indigenous/customary law, tradition and custom.
- 4.6 The State President may seek the advice of the Council of Traditional Leaders on matters of national interest.