

Tamar Lagurashvili

Invented Traditionalism vs. Entrenched Informal Institutions: Viability of Hybrid Governance and Democratization Prospects in Botswana, Lesotho and Swaziland

ABSTRACT

Hybrid governance as a coexistence of state and traditional institutions challenges the conventional understanding of state fragility/failure and offers a new perspective for developing states. Being capable of overcoming the modern-traditional dichotomy, hybrid governance represents the fluidity of a formal-informal institutional setup where the informal actors, including “Big Men”, chiefs or other traditional leaders, complement the state capacity. This study builds on the premise that a higher importance of traditional institutions vis à vis the state can be less conducive to democratization due to the inherent incompatibility of the indigenous traditional tenets with democracy and reflects on the role of the pre-colonial state and the colonial legacy in molding hybrid governance. The research shows that democratic transition in the context of hybrid governance is likely to occur only when relatively strong state institutions subsume traditional ones, as in such a case a cooperative framework of state-traditional dualism not only strengthens the state capacity, but also makes basic goods and services equally accessible to a wider population.



Introduction

Rethinking African statehood in the light of the increasing importance of the local actors in performing the tasks which under normal circumstances the state should be capable of accomplishing requires a closer look at how the state and non-state actors cooperate for the benefits of society. Research on such cooperation is hardly new and such cooperation is acknowledged by the World Bank, for instance, as an important strategy to aid some of the fragile developing states. According to Jed Friedman (2014): “When state institutions find it a challenge to deliver services in under-resourced areas, it’s common for policy makers to consider leveraging existing local non-state capacity to help.” While such cooperation might seem benign and in everyone’s interest, we have to acknowledge the possible pitfalls of institutional dualism, especially when weak state institutions are undermined rather than complemented by the conflicting interests of the non-state actors. Institutional dualism in post-colonial Africa is particularly important as it represents a power struggle between the traditional authorities and the colonial rulers, which can be considered as an inchoate version of the traditional-modern institutional setup commonly referred to as hybrid governance.

Meagher et al. (2014a) note that hybrid governance in the African context can be best understood as a:

“[p]rocess through which state and non-state institutions coalesce around stable forms of order and authority. Instead of focusing on fixing failed states from above, development practitioners and academics are asking new questions about whether more appropriate forms of order are being constructed by ‘working with the grain’ of local institutions operating on the ground in weak state contexts.”

It is crucial to decipher what is meant by the non-state actors in this regional context, since the presence of non-state actors in a broader sense is not something exclusively peculiar to the African reality. Holzinger et al. (2016, p. 470) argue that research on dual governance may also shed light on the parallel governance setups, where church and state coexist, though the notion of non-state actors in Africa is primarily limited to the traditional leaders, mostly in the form of hereditary chiefs, “Big Men”, vigilante groups, etc.

Hybrid governance should be analyzed as a continuum of institutional dualism where the co-existence of the state (formal institutions) and traditional actors (informal institutions) can lead to very divergent outcomes, depending on the strength of the state institutions and the interests of the traditional leaders. Therefore, in the midst of the discussion about the failing attempts at democratization in Africa, it is pertinent to analyze the role of hybrid governance in this process with a special reference to the nature of the modern-traditional admix

shaped in the colonial period. However, it would be misleading to contend that hybrid governance, albeit reflecting the peculiarities of African governance most accurately, can be used to determine/predict democratization per se. A comprehensive analysis of state-traditional institutional development in a historical perspective is instrumental in understanding how traditional leaders can “rescue” inchoate state institutions from a legitimacy crisis, whereas their obstruction of democratization is another important aspect to study. Such an ambivalent role of traditional leaders and institutions requires an in-depth probe into the ways these institutions, confined to the local traditional tenets, evolved and reflected major societal changes over time. The theoretical framework of hybrid governance thus should be predicated on a meticulous research on the pre-colonial state formation, where traditional leaders wielded absolute power, and the colonial rule, where the chiefs’ hold on power was challenged by introducing a veneer of the Weberian state. Molding hybrid governance on a different premise conditioned by the clash of traditional and modern institutions for independence largely defined the extent of democratic transition soon after the 1960s.

This study dealing with three Southern African countries - Botswana, Lesotho and Swaziland – will focus on a complex process of hybrid governance formation and endeavour to explain how the different degrees of institutionalization of traditional governance have led to or prevented democratic transition in the first two decades after the countries gained independence. Epstein et al. (2003, pp. 10-11) rightly argue that “[t]here are two distinct types of questions that we want to answer: what makes countries more or less democratic, and what factors help insure new democracies against backsliding to autocracy? The first is a democratization question; the second, consolidation.” This work, covering the transition of three Southern African countries, only one of which had a limited experience of “democracy” in the pre-independence period, endeavors to analyze a complex process of democratization through the lens of hybrid governance. As the three countries share a number of similarities based on their ethnic homogeneity, traditional political institutions and British colonial rule, a substantial question to be scrutinized is why only Botswana managed to embark on the path of democratic transition, and what prevented Lesotho and Swaziland from pursuing a similar path. Hence the hypothesis of the research (H1): ***The higher the significance of traditional governance vis-à-vis the state, the less likely it is that a democratic transition will occur.***

The importance of the traditional institutions will be measured by the role of the traditional leaders in the **party system** formation on the eve of independence and the **institutionalization** of the traditional leadership by its legislative functions, and its role in land allocation and local governance, thus forming a basis of hybrid governance. Democratic transition as a dependent variable will be analyzed based

on two indicators: 1) multiparty electoral competition and responses to electoral defeat; 2) constraints on the executive. Research on the relatively successful democratic transition of Botswana and its contrast to the partial democratization in Lesotho and the authoritarian, one-party state in Swaziland based on hybrid governance will help us understand how the inherent incompatibility of traditional principles with democratization in the Southern African context requires a subordination of traditional governance to the state institutions. While incorporating traditional narratives into the state-building process in the form of indigenous public discussion forums and customary law practice is fundamental for granting legitimacy to the fledgling state institutions, a possible dominance of traditional institutions within hybrid governance will likely jeopardize democratization. Traditional principles of selection and patronage not only undermine the democratic tenets of election and equity, but they also endanger the independence and accountability of the government branches.

1. Hybrid Governance as a New Buzzword?

The existence of traditional institutions in African politics is hardly new; however, developing a theoretical framework for such institutions will make it possible to analyze the nature of state-traditional (formal-informal) institutional interaction and its role in shaping a particular type of governance in Africa. Informal institutions can be understood as “socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels” (Helme and Levitsky, 2003, p. 9). Such a definition unravels at least two assumptions: first, informal institutions differ from their formal counterparts since the latter are openly codified and thus more transparently accessible to the public, and second, informal institutions, though employing unofficial channels for communication, still use a set of punitive mechanisms in case of deviant behaviour. Informal institutions have a capacity to sanction impermissible actions, albeit via unofficially agreed rules of conduct. Informal institutions, due to their rather ambiguous nature, risk being conflated with similar forms of regulated behaviour, which can further obscure their importance in the traditional African context. Some practitioners might be tempted to equate informal institutions to weak institutions, which is an inherently flawed assumption. A circumvented state capacity rendering weak formal institutions does not necessarily imply the emergence of informal institutions. While a state’s weakness can trigger informal institutions to fill the gap left by its weakness, it would be short-sighted to contend that state fragility inevitably leads to the emergence/revival of informal institutions, a contention which can be partly caused by a misunderstanding of what informal institutions really stand for.

On the other hand, informal institutions, because of their unofficially regulated nature, should not be conflated with other forms of regulated behaviour, simply because “[t]o be considered an informal institution, a behavioural regularity must

respond to an established rule or guideline, the violation of which generates some kind of external sanction” (Helmke and Levitsky, 2003, pp. 9–11). Informal institutions are believed to be more resistant to changes than formal ones since they are deeply rooted in the society's cultural beliefs, which usually undergo only incremental changes. Kraushaar and Lambach (2009, p. 6), while talking about the socio-political role of informal institutions in the literature, refer to Niccolo Machiavelli, who has “advocated employing informality as a strategic resource for the maintenance of power and warned princes of the dangers of over regulating and over-formalizing state organization.” The importance of complementing formal rule with informal institutions, while being evident in Machiavelli's assumption of ideal ways of maintaining power, can yield very divergent outcomes depending on the underlying motives of the informal institutions.

Besides the nature and scope of formal-informal institutional interaction, which will be discussed in detail later on, the emergence of informal institutions should be properly conceptualized. While a “culturalist” view contends that informal institutions are an inseparable part of the cultural context from which they developed (Kraushaar and Lambach, p. 3), such an assumption risks losing an important role of external factors in shaping the informal institutions. Helmke and Levitsky (pp. 17–19) offer two theories related to the emergence of informal institutions. According to them, reactive and spontaneous informal institutions should be distinguished based on their relation to the formal institutional structures. Reactive informal institutions emerge in a direct response to the state’s weakness/fragility in order to fulfill the functions that the state is incapable of carrying out. Referring to the African context, it is an everyday reality that non-state actors (another term used to denote informal institutions) fill the gaps left in public service provision left by the state weakness. Based on the example of DR Congo and Niger, Meagher et al. (2014 b, p. 2) note: “A surprising array of non-state actors are carrying out governance functions, including rebel militias engaging in taxation and service provision in neglected areas of the DRC, or public health services in Niger depending on bribery and voluntary cleaning services by hospital users.” Informal institutions, especially in the African hinterlands, where the outreach of the state is limited, largely mitigate the detrimental effects produced by state incapacity. Therefore, not only the emergence, but also the actual existence and endurance of reactive informal institutions heavily depends on the effectiveness of the formal institutions. As soon as the formal institutions regain the capacity to provide public goods and services and to ensure justice and security, the role of informal institutions will become marginal, which will ultimately lead to three possible scenarios: The informal institutions will eventually phase out in the face of a successful state performance; they will endeavor to regain authority through undermining the state capacity; and/or they will be integrated into the state structures in case of compatible goals. Spontaneous informal institutions are less

susceptible to the changes in the formal institutional structures since their emergence is rooted in the local traditions and cultural norms. However, such informal institutions are not immune to changes and can be affected by some fundamental changes in the society. Regime change and cultural evolution can be two of the factors contributing to the modification or phasing out of spontaneous informal institutions; however, this process happens slowly and incrementally.

Informal institutions also vary according to the nature of the interaction between the traditional leader (as the head of a certain community) and the community. This dialogical framework is characterized by an active reciprocity which, some would argue, displays parochial interests. In such a context, the traditional leader distributes goods and services among his community members with a hope to retain legitimacy, while on the other hand, the community members seek allegiance to such a leader who can ensure their well-being. Such interaction is still relevant in many African societies, where informal institutions bridge the gap between the state and society. While such an exchange of goods and loyalty is largely unacceptable from the Western viewpoint, it constitutes an integral part of the African culture which is less likely to be subsumed by the state without high transaction costs.

Traditional institutions in Africa are characterized by a higher degree of endurance since not only have they resisted colonialism, but they have also managed to survive the surge of nationalism (mostly in the form of cultural nationalism in Africa) concomitant with the wave of independence in the 1960s. The power struggle between the traditional leaders and the state in the direct aftermath of independence posed an intractable problem for the newly elected governments, as they had to walk a tightrope trying to strip the chiefs of their power and legitimize their own tenure. Being aware of the authority of traditional leaders especially at the local level, African political leaders basically resorted to two methods for dealing with them: the traditional institutions were either abolished like in Tanzania and Sierra Leone or they were incorporated in the governance like in Botswana and Uganda. While sidelining the traditional leaders would have caused a legitimacy crisis of the incumbent governments and, in some cases, ushered the countries into a civil unrest, it would be gullible to contend that their incorporation in the state-building process has inevitably pre-empted such clashes. Informal institutions, being either spontaneous or reactive, as was discussed earlier, endeavor to fulfill state functions in case the formal institutions are unable to perform as expected. However, the interest compatibility/conflict between formal (state) and informal (traditional) institutions can largely shape the viability of such interaction. Therefore, the underlying motivations of informal institutions and the state capacity (the strength of formal institutions) are the factors based on which Helmke and Levitsky (p. 12) offer the following typology.

Table 1. A Typology of Informal Institutions.

	Effective Formal Institutions	Ineffective Formal Institutions
Compatible Goals	Complementary	Substitutive
Conflicting Goals	Accommodating	Competing

In order to bring clarity to the formal-informal (state-traditional) institutional dualism exemplified by this typology, we should analyze how the possible cooperation can form a basis for different forms of hybrid governance. In cases where effective formal institutions co-exist with informal institutions while both have compatible goals, a complementary nature of hybrid governance is formed, where informal institutions merely fill the gaps left by the formal institutions. Also, effective formal institutions can be challenged by the conflicting interests of informal institutions, which is considered to be the second best possible outcome. As Helmke and Levitsky (pp. 13–14) note, in the context of accommodating hybrid governance, informal institutions are only capable of violating the spirit, but not the rules defined by the formal institutions. When ineffective formal institutions co-exist with informal institutions while both have rather compatible goals, we encounter a substitutive cooperation in which informal institutions basically carry out the functions which formal institutions were expected to perform. However, when weak formal institutions are confronted with the conflicting interests of informal institutions, supposedly the least favorable outcome is expected. In cases of competing informal institutions, the actors of such institutions openly challenge and defy the formal institutions in such a way that adherence to one side (e.g. to the state institutions) automatically excludes the possibility of another option (e.g. adherence to traditional institutions).

This typology, apart from pointing out four different possibilities for a formal-informal institutional arrangement, also raises an important question: Can a situation in which weak formal institutions (state institutions) are undermined by the conflicting interests of relatively strong informal institutions be regarded as a form of hybrid governance, or do we have to deal with ungovernance in this case? Subsequently, one should also enquire whether the supremacy of traditional governance over the state institutions can be conducive to the democratic transition, which is especially important in the African context. Meagher et al. (2014 b, p. 7) note that “[t]he value of hybrid governance approaches depends on clarifying whether negotiations between state and non-state actors are shaping a social contract, fragmenting formal authority, or empowering illegitimate social forces.” Such a statement, apart from resonating with the typology discussed

above, also pinpoints that the essence of hybrid governance should ideally be a social contract which can be understood as a logical continuation of Weber's traditional authority paradigm. Englebert (2000, pp. 10–11), discussing the impact of a successful pre-colonial (informal) and post-colonial (formal) institutional coordination on the economic growth in tropical Africa, notes that “[f]ormal institutions such as the state will be more likely to be efficient, in the sense of promoting growth, the more they are congruent with informal institutions and norms, the more they are endogenous to their own societies, and the more they are historically embedded in domestic social relations. In short state legitimacy breeds state capacity.” His assumption of the state and informal institutions having a mutually reinforcing nature is particularly interesting as he sees this interaction as a source of lending legitimacy to the state institutions and, thus, strengthening their capacity through utilizing the socially embedded traditional practices. Englebert's assumption resonates with a conjecture proposed by Holzinger et al. (p. 475): “The less legal integration and harmonization of state and traditional institutions we observe in a country, the more negative consequences will appear.” By harmonization, they primarily mean a closer legal integration of the informal institutions in the state, which will enable the latter to pre-empt an “unregulated parallelism of two systems.”

Albrecht and Moe (2015) contend that the introduction of hybridity in the governance and development literature has helped to overcome its long-standing focus on state fragility and failure. From the perspective of donor organizations, a limited state capacity which has a deleterious effect on good governance can be best “cured” with a set of good governance indicators, as such indicators are the backbone of a successful liberal-democratic state. But the authors (2015, p. 3), on the contrary, note that “[t]he notion of a hybrid political order has been presented as an analytical concept that more accurately grasps the empirical dynamics of political ordering in settings characterized by recent conflict and often as a consequence thereof limited reach of a set of centrally governed institutions.” Hybrid governance as a more accurate representation of the post-independence African governance can be understood as a dualism of the institutional setup. Holzinger et al. (2016, p. 471) scrutinize the ways formal and informal institutions interact and thus, they distinguish the institutional setup from the political consequences. According to them, the former deals with the actual methods of state-traditional governance coexistence, while the latter is used for predicting “political consequences of dualism for democracy, peace and conflict, and development.” The authors (p. 472) jettison a state-centric approach towards hybrid governance, according to which what matters is the extent of autonomy exercised by the traditional authorities and the degree of political decentralization pursued by the state. Institutional simultaneity or dualism, while being a powerful tool for overcoming a state fragility/failure narrative, can produce a similar

dichotomy based on the traditionalism vs. modernity binary for hybrid governance. Albrecht and Moe (2015, p. 7) thus propose shifting the attention from hybridity as a concept to hybridization as a process:

“We suggest, instead, shifting the analysis from the ontology of entities and ‘forms of order’ to the ontology of relationships and a focus on enactments of order and authority. The state or tradition never just is, and as has been well documented certainly never in isolated, uncontaminated spaces. Rather, they are continuously enacted and re-enacted, and in these processes, numerous sources of authority are drawn in and upon at the same time. To further the understanding of processes of hybridisation, we take our point of departure in the concept of simultaneity of discourse.”

Lauer, who openly challenges the popular narrative of bad governance being blamed for the plight of the African nations, condemns the rather oversimplified dichotomous approach that is used when it comes to characterizing the African governance:

“Understood in their normal, loose sense, tradition and modernity independently mark off two generally distinguishable (but not mutually exclusive) knowledge traditions or perspectives, two ways of life rooted in different histories and economics. It would be ridiculous to suggest there are no substantive differences between these ways of life. The difficulty arises, rather, in a general failure to recognize where modern cultural developments have been swiftly subsumed by, and smoothly integrated within, ancient cultural milieus in Africa.” (Lauer, 2007, p. 292)

Lauer offers an interesting insight into the popular attitude towards traditional leaders and elected officials which can be an important point of departure in properly assessing the role and importance of individual stakeholders not only in governance but also in managing and distributing foreign aid: “From within African primordial publics, elected governments of the central state appear epiphenomenal. They come and go. But the traditional chiefs remain accountable to their ancestors - not for 4 years but for life – to serve all the needs and concerns of their communities and of future generations” (p. 302).

If we agree that hybrid governance has an intrinsically complementary nature it means that effective formal institutions are assisted by the informal institutions (it is crucial that formal and informal institutions have compatible interests) mainly in the hinterlands, where the state outreach is limited in its capacity to deliver goods and services, ensure justice and provide security. In this context, Kate Baldwin (2014) inquires why politicians must be interested in ceding power to the chiefs instead of strengthening their positions, which will most likely make the traditional leaders have a marginal say in politics. She assumes that a decision to devolve some

power to the traditional leaders is a strategic one which is basically conditioned by vote seeking. Specifically, Baldwin (2014, p. 253) argues that “political leaders cede power to traditional chiefs as a means of mobilizing electoral support from non-coethnic groups” and “they [the politicians] often devolve power to those traditional leaders whose positions enable them to mobilize support from groups who are ethnically unaligned with the major political parties in a country.” While such an observation can be valid for multiethnic countries like Chad, Cameroon, Nigeria, Togo and the DR Congo, it fails to provide an explanation for the relative ethnic homogeneity in a case where the society is divided only by tribal affiliations. The devolution of power to the chiefs in Southern African countries like Botswana, Lesotho and Swaziland, which are characterized by a higher level of ethnic homogeneity, cannot be attributed to vote seeking purposes only. As experiences from these countries show, their political elites cede power to the chiefs based on the following grounds: 1) the elites acknowledge that inchoate state institutions are not fully capable of meeting the societal expectations and thus, they devolve power to the traditional leaders in the periphery while retaining the right to suspend them in case of any flagrant violation of the law on the chiefs’ part; 2) politicians cede power to chiefs who are closely aligned with their interests in order to create an illusion that the political power is not entirely centralized and 3) chiefs are entitled to power since they are deemed to be custodians of tradition, which is considered to be the only legitimate source of power. The diversity of the underlying motivations renders very divergent hybrid arrangements and also largely defines the effectiveness of the hybrid governance, which will be discussed later across the case studies.

Based on the examples of vigilante groups and area boys in Southern Nigeria, Lund (2006, p. 687) depicts how the members of these informal institutions understand their role in such a hybrid arrangement: “On the one hand, they portray themselves as resisting disorder, sticking up for ordinary people, and doing the job that the state fails to do. The youth associations ‘screen’ politicians before they are supported to run for office, and they control the work of contractors in the local community.” Such informal institutions, like many during the colonial period, seem to be straddling between their communities, which ultimately lend them legitimacy, and the state, which authorizes their actions. Apparently, traditional leaders still have the function of intermediaries between state and society which goes back to the very essence of national identity formation in many African societies.

Tim Quinlan, in his analysis of Basotho identity,¹ attempts to analyze the essence of Lesotho’s detachment between state and society:

“It is a debate that poses a particular problem for inquiry, namely, the relationship between the state and national identity. I see in the debate

¹ “Basotho” is the collective name for nationals of Lesotho.

a crisis of legitimacy for the state in respect to its citizens, particularly amongst the rural populace. On the one hand, there is a popular perception of a correspondence, in the past, between the state, civil society and national identity that is based on a history which can be read to have produced the Basotho nation with an homogenous population and a common language, and a state which upheld inclusive and indigenous concepts of government and economic practice. On the other hand, there is a popular recognition of a divergence between identification with Lesotho and the ability of the state to meet the needs of the people” (1996, p. 377).

While the role of traditional leaders in the construction of national identity in Lesotho will be analyzed further in the paper, it is worth noting that the informal institutions in both precolonial and colonial periods have served as a major source of identity (tribal rather than ethnic or national) formation. Though some chiefs have capitalized on this advantage and have endeavored to further widen the gap between state and society, their role as identity “custodians” has safeguarded their position in the post-independence period.

Based on two Afrobarometer survey, Logan (2009, p. 101) analyzes the popular perception of traditional leaders vis-à-vis public officials and notes that “[o]ur data indicate that Africans who live under these dual systems of authority do not draw as sharp a distinction between hereditary chiefs and elected local government officials as most analysts would expect. In fact, far from being in competition for the public's regard, traditional leaders and elected leaders are seen by the public as two sides of the same coin.” The Afrobarometer surveys (the first round being for 1999–2001, and the second round for 2002–2003) include 22 African countries represented by randomly chosen adults (the surveys include data on Botswana and Lesotho; however, they do not cover Swaziland).

Logan (2009, pp. 104–105) refers to traditional institutions like the Batswanan *kgotla*, the Basotho *pitso*, the Somali *shir* and the Kenyan *baraza* as examples of the enduring importance of traditional decision-making platforms in the modern African governance. She further contends that “[c]hiefs and councilors, [and] sultans [...] inhabit the single, integrated political universe that [...] shapes each individual's life. In the perceptions of ordinary Africans, it seems that democracy and chieftaincy can indeed coexist.” Tradition as a source of political legitimacy in Africa has gained momentum on the eve of independence, since the new political elite acknowledged that their authority would have been constantly challenged if they sidelined traditional institutions. While political elites in some countries (like Swaziland) resorted to an extreme case of traditionalism in order to strengthen their hold on power, others endeavored to pursue a more balanced policy. Contained in this process, chiefs revisited their roles as intermediaries between the state and communities through integrating local traditional governance within a broader state-building framework. Their responsiveness or transformative nature thus

helped them to retain public allegiance and gain state trust at the local level. In order to have a general understanding of the public trust in public officials and traditional leaders (assuming that such trust towards both institutions represents a foundation of hybrid governance), Logan (p. 119) offers survey data examining trust in leaders (traditional leaders), the President/Prime Minister, the Parliament/National Assembly and the local government.

It can be assumed that traditional leaders are generally considered to be trustworthy and on some occasions, the respective indicator in the survey even surpasses that of the president/prime minister. In Botswana and Lesotho, traditional leaders enjoy more trust than the Parliament/National Assembly (52% of the Botswana trust traditional leaders in contrast to 32% for the Parliament; in Lesotho 58% of the respondents trust traditional leaders, compared to 49% for the National Assembly). Generally, we can see that traditional leaders still play a pivotal role in shaping the daily and political lives of many African societies. They derive their legitimacy from their roles as custodians of tradition - presumably the most important determinant of African political culture, which has survived the colonial onslaught and safeguarded its position as an integral part of the African-type governance that came to be known as hybrid governance.

2. Hybrid Governance in Southern Africa: Traditional Governance vis-à-vis the State

The complexity of the hybrid governance in Africa goes beyond a simplistic dichotomy of “ascription and achievement” (Comaroff, 1978, p. 1) and is ideally connected with the process through which the hybridity of the political orders is arranged. Boege et al. (2007, p. 46) criticize the tenets of the evolutionary theory as being rigid and less universally applicable than those of the theory of hybrid governance: “What evolutionary theory seems to have ignored, however, is the strength, resilience and persistence of custom and tradition both as a source of identity and as a means of organizing social, economic and political systems in a modern, globalised world system.” Focusing on the South Pacific, the authors note that far from the high expectations of replicating the OECD model of the state in developing countries, what we witness is a limited state capacity for fulfilling society’s basic needs. On the other hand, traditional institutions which had been exposed to colonial manipulation have somewhat lost their inherent legitimacy and remain in limbo. Therefore, an absence of a single mechanism (either state or traditional) for providing goods and services and for ensuring security calls for more coordinated work by these institutions.

Other authors, while acknowledging the gap left by state weakness, overlook the importance of informal institutions in “filling the gap” and thus still cling to the conventional state fragility curing method. Referring to a “sovereignty gap” Ghani et

al. (2005) contend that the only viable solution is enhancing good governance, which will not only strengthen the state capacity, but also create conducive conditions for development. However, trust in traditional leaders and institutions in developing countries and especially in Africa – as was well demonstrated by Logan’s earlier presented data – reflects a need to create an analytical framework through which a robust comparative study of hybrid governance can take place. Hybrid governance, as a simultaneity of institutions, can be considered as a viable alternative to the Weberian state only when the state capacity at minimum allows “for the provision of security and basic services to a significant portion of [states’] populations” (Boege et al. 2008, p. 17) and when the informal institutions, having compatible goals with the state, complement and extend state functions in rural areas, where the latter has limited outreach. Such an understanding of hybrid governance will help to partly shed light on a highly complex interaction of formal and informal institutions. The transformative changes undergone by the traditional institutions during the colonial period, which mostly served to undermine and discredit them, have long-lasting repercussions in the post-colonial Africa. Relatively disempowered traditional leaders resorted to a vast array of mechanisms for restoring their authority, and this took place concomitant with the struggle of the states to extend its power and legitimacy in the hinterlands.

This research will tackle this issue in the context of a comparative study of three land-locked Southern African countries: Botswana, Lesotho and Swaziland. Due to their geographic location, these countries basically served either as a connecting route to North Africa (for example, to Egypt via Botswana) or as buffer zones between the Boer (Afrikaner) republics and German expansion (notably in South-West Africa, in what is today Namibia). Mineral deposits in the form of gold and diamonds were discovered in the later period of colonialism and thus, at the onset of British colonial rule the countries were far from being high on the agenda. The relative ethnic homogeneity characteristic of all three societies does not necessarily imply an absolute hegemony of major ethnic groups, as it is well documented that during the pre-colonial period the indigenous tribes not only accepted refugees from different ethnic groups, but also endeavoured to integrate them into their communities. They were in a constant defensive struggle, first with the powerful Zulu tribe under King Shaka and later on with the Boers, who populated the Transvaal and Orange Free State republics. Following their leaders’ continuous pleading with the British for protection for their communities from the Boer intrusion, they soon found themselves under British colonial rule as High Commission Territories (HCTs).

As the British considered these territories rather insignificant, they were subject to the Resident Commissioner to the Union of South Africa (present day South Africa). While the latter expected an eventual transfer of the territories in the Union, Britain was rather sceptical of this due to a number of reasons which will be touched upon

below. However, the territories' strong economic dependence on South Africa during the colonial period, which was well expressed in a labour outflow to the mines and fields, cannot be overlooked. Magagula (1988, p. 30) notes that "[t]he economies of the HCTs were conspicuously linked to the South African one through the creation in 1910 of the Southern African Customs Union (SACU) whose membership was (and still is) South Africa, Basutoland (Lesotho), Bechuanaland (Botswana) and Swaziland." While economic dependence on South Africa is still an important issue in Lesotho (and to a lesser degree in Swaziland), here it will not be treated as an independent variable. It is well documented that labour migration to South Africa, mostly mediated by the chiefs, took place across all the HCTs and the fact that Botswana managed to escape this vicious circle can be ascribed to the sound policies undertaken by the post-independence leaders, which were largely absent in the other two countries. According to Torrance (1998, p. 753): "In 1913, Khama² was forced to rescind his prohibition on labour recruitment, and by the 1930s, the Tswana had become dependent on labour migration for their economic existence." Seidler (2010, p. 18) further corroborates this statement: "job migration became widespread among Tswana males, because many in the Protectorate looked for employment in South Africa and the Transvaal. By 1943, nearly half of the male workforce between 15 and 45 years were working away from the Protectorate." Referring to Lesotho, Cobbe (1982, p. 847) notes that "[s]ince [the] 1930s, roughly half the adult males have been absent from the country working in South Africa at any time. In the 1970s, probably 6 and 8 persons were working as migrants in South Africa for one with regular full-time employment within the country." Due to the widespread sectarian strife in the direct aftermath of the independence, Basotho³ labour migrants opted for overseas work as they saw little economic prospect in their country. Cobbe (p. 856) illustrates that the share of net remittances in the GNI of Lesotho increased from 19.2% upon the independence in 1966 to as much as 45.9% in 1978.

Magagula (1988, p. 234), in his analysis of Swaziland's relations with Britain and South Africa, outlines the main reasons of Swazi migrant labour. He conjectures that the drought and rampant livestock diseases and a strong wish of the royal Dlamini family to regain the lands lost to the concessions during the pre-colonial period incentivized most Swazis to work in the South African mines.

While Botswana, Lesotho and Swaziland do share the significant similarities discussed above, the laudable performance of Botswana, sometimes referred to as "an African miracle", compared to the perennial turmoil in Lesotho and the increasingly autocratic rule in Swaziland in the post-independence period, requires a closer examination. The research will argue that the degree of democratic transition in Botswana, Lesotho and Swaziland was conditioned by the nature of the

² Khama was a chief of the Bangwato tribe.

³ "Basotho" is a collective noun for Lesotho nationals, and the singular form is "Mosotho."

state-traditional institutional framework rendered by the British colonial rule. The British indirect rule while the British introduced taxation, monetary trade and paid labor allowed for the co-existence of the traditional institutions through different legislative councils.

2.1 Research Design

This comparative study will be predicated on the most similar systems design (MSSD) model, which is illustrated below:

Table 2. Research Design.

MSSD	Botswana	Lesotho	Swaziland
Ethnic homogeneity	yes	yes	yes
Strong pre-colonial traditional institutions	yes	yes	yes
British indirect rule	yes	yes	yes
Importance of the traditional institutions in the post-independence hybrid governance	low	medium	high
Democratic transition (1965-1985)	yes	partly	no

Hybrid governance is treated here as an overarching concept which can theoretically include any type of state-traditional co-existence; however, the end result is determined by the nature of such an institutional duality. Deciphering hybrid governance and especially its constituents as proposed by the independent variable is pivotal for the study's conceptual and analytical clarity. Furthermore, we should be reminded that in the face of limited quantifiable data on the proportion of the traditional-modern arrangement embedded in the hybrid governance, an in-depth qualitative analysis of the role played by traditional leaders in the two decades after independence is especially valuable. It can be argued that the concept of party system formation and institutionalization of traditional governance in the direct aftermath of independence best captures the dynamic of the power struggle between the inchoate state and the already entrenched traditional institutions. Since the results of the first pre-independence elections greatly influenced the likelihood of democratic transition across the case studies, the role of traditional leaders in this process will be measured by: 1) the composition of the winning parties (in the pre-independence elections) and 2) the response to the (possible) power loss after the 1st post-independence elections. Power devolution to the chiefs as custodians of the local culture and traditions was acknowledged by the new political elite in all three countries; however, in reality it had been applied to considerably varying degrees. While considering the 20-year transition period, the institutionalization of traditional governance will be measured by three key

indicators: 1) legislative functions granted to the traditional leaders; 2) their role in local governance and 3) the right to land allocation. The relevance of these indicators will be further scrutinized in the following chapters dealing with all three periods (the pre-colonial, colonial and post-independence periods) of the state formation.

Epstein et al. (2003, pp. 2–3) note that recent studies on democratization focus on a number of factors which can be conducive to democratic transition: higher levels of GDP per capita (Przeworski, Alvarez, Cheibub, Limongi, 2000); levels of inequality (Acemoglu et al. 2002); and changes in the stock of capital and the size of the workforce (Rosendorff, 2001). However, a robust comparative study of hybrid governance in the democratization context is still missing. Having a relatively short history of academic research, hybrid governance proves to be relevant for studying democratic transition in the regional context for two reasons: 1) the British colonial rule in Botswana, Lesotho and Swaziland, due to its peculiar nature, allowed for the co-existence of traditional and “modern” institutions and their admix, which can be regarded as a nascent form of hybrid governance; 2) such an institutional duality not only preconditioned the power struggle on the eve of independence, but it also defined the trajectory of the democratic transition. Democratization predicated on the principle of free and fair elections seems inherently contradictory to the selection or ascription virtue of traditional governance, which limits equal access to public goods and services (traditional governance, with its conventional understanding, is based on a web of patronage and clientelism) and does not allow for an active and direct participation in the decision-making process. However, retaining traditional institutions is of core importance for the newly independent states for at least two reasons: 1) traditionalism, as a broader concept, in the context of Botswana, Lesotho and Swaziland, used to lend legitimacy to the rulers, and thus abolishing indigenous institutions could lead to a legitimacy crisis of the new state; 2) in the transition period, traditional leaders can play an important role in preventing tribal conflicts, forming the national identity and assisting the fledgling state in delivering basic goods and services. Therefore, democratic transition in these countries can and preferably should not bypass the traditional governance, though the way it is incorporated in the state institutions renders divergent outcomes. The democratization across the case studies will be analyzed by using two indicators: 1) multiparty electoral competition and responses to electoral defeats; 2) constraints on the executive authority. The following chapters will look at the process of hybrid governance formation in a comparative context and evaluate its impact on the democratic transition during the 20-year period.

3. Implications of Hybrid Governance: Party System Formation

The pre-colonial state formation predicated on the indigenous tradition became subject to the colonial influence and manipulation to a certain degree. Traditionalism not only lent legitimacy to the informal institutions, but it also helped the chieftaincy to survive the colonial suppression, which can be conceived as a first attempt at merging the “state” and traditional institutions. The British colonial rule, while having divergent effects on the indigenous institutions in Botswana, Lesotho and Swaziland, introduced a veneer of the Western model of the state, which largely shaped the nature of the democratic transition in these countries. This section will test the conjecture that the higher importance of the traditional institutions/governance vis-à-vis the state in the immediate post-independence period has resulted in varying degrees of democratic transition across the case studies.

The post-independence political transition pursued by the new political elites was defined by the nature of the modern-traditional institutional blend forged in the colonial period, which, as mentioned earlier, was the one of mutual influence and interdependence. Popular claims for independence starting in the 1950s soon siphoned in the inchoate party formation, which was expected to involve the interests of chiefs and commoners likewise. While the eve of independence saw a number of parties being formed in each country, the outlook of the winning parties in the first pre-independence elections will be closely analyzed.

3.1 Botswana

The political elite of the Botswana Democratic Party (BDP) founded in 1962 was exceptional in two fundamental ways: almost every founding member of the BDP was Western-educated and they all envisioned the political transition as an inclusive process integrating the interests of almost every segment of society. The BDP leadership capitalized on the internecine fragmentation of the earlier created Bechuanaland People’s Party, which was struggling to escape the influence of the ANC (African National Congress). The founder of the BDP, Seretse Khama, was prudent in choosing an inclusive vision for his party, and a similar vision was never witnessed in Lesotho and Swaziland. Acemoglu et al. (2001, pp. 14–15) note:

“In contrast the BDP integrated within it not only an emerging educated elite of teachers and civil servants, [but] also the traditional chiefs. Seretse Khama bridged this gap, being both the hereditary leader of the largest Tswana state, but also European educated. The particular political strength of the BDP coalition was that they could integrate within the party the traditional rural structures of loyalty between commoners and chiefs.”

Unlike other political parties in Botswana, the BDP was not an urban-based political formation, but was rather equally appealing to the rural chiefs and commoners (Beaulier and Subrick, 2006, p. 4), especially because it included the cattle owners. Good (1992, p. 73) notes: “The B.D.P. elite has, simultaneously, its social foundations among the poor peasantry dependent upon cattle while not owning any for themselves.” Tsie (pp. 603–605) argues that the BDP ties to the poor peasantry date back to the colonial period, when the *mafisa* system of farming out cattle to the poor commoners and borehole ownership enabled the peasants to support households without an exclusive dependence on the South African remittances. It is important to note that the same people who years later became founding members of the BDP initiated the borehole ownership in the 1930s. The BDP’s popularity among the commoners increased after a series of rural development initiatives undertaken in the first years of independence. Another important aspect of the BDP, which became a focal characteristic of the party system in Botswana, is its responsiveness to the threat of losing power (Acemoglu et al. p. 15). The related pattern is an embodiment of a strong tradition of checks and balances imposed on the traditional chiefs in both the pre-colonial and the colonial period, which made them not only accountable, but also highly adaptable and responsive to the changing milieu and public demands. The authors (p. 16) note that “[a]nother example of [the BDP’s] political responsiveness is that after losing ground in the 1994 election the BDP responded by introducing popular reforms such as reducing the voting age from 21 to 18 and allowing Batswana outside the country to vote ([which was] particularly important given the large number still employed in South Africa).”

The political party formation in the newly independent Botswana revolved around three major parties: the BPP, the BNF (Botswana National Front) and the BDP; however, James H. Polhemus (1983, p. 402) notes that “a major feature about party ideologies in Botswana has been the absence of acute ideological differences”, which he attributes to the fact that these parties “were formed [for] the sole purpose of mobilizing nationalist feelings and the creation [of] an independent state.” The parties mostly differed in terms of policy cohesion and thus, he uses the BDP as a benchmark since the initial party manifesto “has reflected a consistency of policy [sic] and because inevitably its positions have served as a target [for] the other parties” (Polhemus, p. 402). While other parties were positioned on the anti-colonial and anti-chieftaincy lines, the BDP leadership managed to overcome the modern-traditional dichotomy through an ingenious way of combining both modernity and tradition while overtly offering the advantage of a modern, liberal-democratic state where traditional leaders would only have a supplementary function.

The BDP party manifesto was succinct about the likelihood that traditional institutions would shortly become appendages to the state: “the Bechuanaland

Democratic Party stands for a gradual but sure evolution of a national state in Bechuanaland, to which tribal groups will, while they remain in existence, take a secondary place. This is an unavoidable development, an evolutionary law to which we must yield to survive, or [resist] and disappear as a people” (Bechuanaland Democratic Party, 1965).

Acknowledging the importance of traditional leadership, Seretse Khama founded his party on the values of *Kagisano*, which, on the one hand, was in line with the Tswana political culture and, on the other hand, represented the tenets of modern liberal-democracy: “We must build a society in which all our citizens, irrespective of race, tribe or occupation can fulfill themselves to the greatest possible extent, and uphold the ideals [...] enshrined in [the] Setswana concept Kagisano – unity, peace, harmony and sense of community” (Polhemus, p. 403). Willie Henderson (1990, p. 38) argues that it was Khama’s “personal democracy”, which was evident in his openness, defiance of the “behavior of those aristocratic members steeped in the privileges of kinship” and spirit of inclusiveness that not only led to the BDP victory, but also laid the foundation of the multiparty democracy in Botswana.

3.2 Lesotho

The inclusive nature of the BDP stood in sharp contrast to the Basotho National Party (BNP) in Lesotho and the Imbokodvo National Movement in Swaziland. The BNP, formed and led by Chief Leabua Jonathan, was comprised exclusively of principal chiefs and it did not allow for the participation of junior chiefs and commoners in it, which in turn led to the continuation of the political defection practice so deeply rooted in the Basotho society. The obstruction of the principal chiefs soon became apparent when in 1969 the District Councils (which were set up in 1943 under the colonial administration) aiming at political decentralization were abolished since members of the opposition Basutoland Congress Party (BCP) dominated them (Maundeni, 2010, p. 133). Mofuoa (2005, p. 4) contends that “the abolition of [the] District Councils by the Jonathan regime saw an end of participatory institutions at the local level, resulting in increasing centralized administrative and planning machinery.” It can be argued that political responsiveness, which substantially contributed to the democratic consolidation in Botswana, was largely absent and ill-perceived in Lesotho. Soon after losing the second general elections to the BCP in 1970 Leabua Jonathan repealed the Independence Constitution (which is strikingly similar to the Swazi case of 1973) and banned political parties, which not only undermined the prospect of the democratic transition in Lesotho, but also laid the foundation for a series of military coups, the most recent of which was attempted in 2014. The transformation of the BNP youth wing into a paramilitary group for serving the parochial interests of the party leadership challenged the authority and credibility of the Lesotho Defense Force (LDF), which staged a coup in 1986, overthrowing Jonathan’s one-party rule and

establishing a military regime. Political instability marked by party defection is not something new in the case of Lesotho, especially if we take into account the Basotho political culture discussed earlier. However, the destructiveness of the newly created party system soon ushered in a military regime, which was a repercussion of Leabua Jonathan's irresistible desire to retain power at any cost. Soon after the transformation of the BNP youth wing into a paramilitary group and its utilization for suppressing dissent, Lesotho became a country where civilian control of the military remained an unaccomplished mission.⁴

Richard F. Weisfelder (1992, p. 653) contends that while originally the BNP was a "bastion of traditional rural, conservative Catholic, and strident anti-communist values", the party leaders were not afraid to put political expediency ahead of ideology. He refers to the actions that were followed by the 1970 electoral defeat, when Leabua Jonathan established links with the A.N.C., China, the Soviet Union and North Korea for securing military support. In his address to the BNP youth rally in 1968, Jonathan stated that "modern ways" of state-building could be applicable to Lesotho only if and when "sound traditions, culture and customs, and preservation of the social structures, such as chieftainship, churches, and family units, underpinning these values", are high on the independence agenda (Weisfelder, 1981, p. 227).

It can be argued that the exclusionary nature of the BNP, which embraced a pro-chieftaincy stance, was important in two major ways: the sharp distinction between the principle chiefs and the others (the junior chiefs and commoners more broadly) proved to be conducive to a surge in party defection and a continuous distrust of the electoral results, which required a military intervention by the South African Development Community (SADC) in a number of cases; and more importantly, as Maundeni (2010, p. 133) contends, the BNP ideology set a precedent: "in Lesotho, chiefs led parties that ended up ruling the country."

3.3 Swaziland

The triumph of traditionalism in Swaziland starting in the 1920s became a point of departure for the political party formation in the post-independence period. It can be contended that the role of traditionalism in the party system has finally entrenched the political power entirely in the hands of the royal family. While the Tswana and Basotho political elite acknowledged the importance of incorporating the modern state in their governance to a varying degree, Sobhuza II as a leader of the newly emerged Swazi political elite "strongly advocated that divisive party politics should be replaced by a royally supervised traditional political order devoid of the influence of radical urban elements" (Bischoff, 1988, p. 457). Sobhuza II was

⁴ More about the issue is available in "The Military and Democratization in Lesotho" by T.H. Mothibe, in *Lesotho Social Science Review* Vol. 5 No. 1 (47–63).

utterly unsatisfied by the British proposal of a 30–30–30 political representation in which the Swazi, the British and White settlers would have equal representation, which became a focal point in developing a narrative stating that the party system is inherently incompatible with the Swazi way of life (Potholm, 1966, p. 314). New political parties, including the Swaziland Progressive Association and the Ngwane Liberatory Congress, formed before the first general elections, and they were calling for radical changes in the status quo, an end to tribalism, and the nationalization of much of Swaziland's infrastructure (Potholm, p. 314). Despite the popular opinion that the Swazi kingship should stand above the party politics, an imminent threat of power devolution led to the creation of the Imbokodvo National Movement in 1964 under the auspices of the royal Dlamini family. However, soon after it assumed absolute power, members of the Liberatory Congress as well as other minor opposition parties were amalgamated into Imbokodvo. The post-independence party politics in Swaziland was substantially shaped by Swazi traditionalism, which not only defined the concept of representation, but also led to the formation of the *tinkhundla* electoral system. In connection with this, J. H. Proctor (1973, pp. 276–277) refers to Sobhuza II, who believed that representation could be credible only if it was representative of the nation as a whole rather than of a particular segment of society, which was also a reason why he discarded parties in general as a divisive force for the Swazi unity. From Sobhuza's perspective: "The modern sanction of the ballot box created a situation in which the traditional trustee role for representatives as defined by the Ngwenyama no longer seemed altogether appropriate" (Proctor, p. 278). Sobhuza managed to extend his power "through the transformation of the quasi-traditional institution of *tinkhundla* into an instrument of territorial and political control", especially in the urban areas where the royal family was vehemently resisted (Woods, 2015, p. 7).

The Imbokodvo National Movement was not a political party in the sense of the conventional understanding of the term, since it did not have a founding manifesto, there was no party convention for it and it basically served as "the operational political arm of the monarchy" (Proctor, 1973, p. 275). Imbokodvo, being dominated by the Dlamini family members, served only one function: that of monopolizing power through eliminating any political party based on the sacred concept of Swazi tradition. While Imbokodvo managed to take all the contested seats in the 1964 and 1967 elections (24 seats in total), the 1972 general election was a turning point in the Swazi political life. Having to "concede" three seats to the Ngwane Liberatory Congress because of this election meant a total disaster for the ruling party since it was understood as the start of a diminishing of the authority of the traditional leaders. Thus Sobhuza II, in the same fashion as Leabua Jonathan, repealed the Independence Constitution of 1968 in 1973 and declared a state of emergency. As Proctor (1973, p. 287) notes: "Sobhuza undertook to justify the abolition of the existing system by condemning it as an alien one. He asserted that

the constitution had brought a 'foreign spirit of bitterness' to Swaziland and that the people wanted one 'created' by themselves which will give them full freedom and guaranteed peace and happiness." More importantly, the 1973 decree banned all political parties and movements in Swaziland, thus declaring it a one-party-state. The post-independence Swazi political elite capitalized on the notion of traditionalism as an embodiment of the nation itself, which originally emerged in the 1920s and 30s. Portraying political parties as inherently alien and incompatible with the Swazi tradition transformed the country into an authoritarian regime where the personal dictatorship of Ngwenyama goes almost unchecked. Currently Swaziland has a major opposition party – the People's Movement for Democracy (PUDEMO) – but its members are either in jail or live in exile in the neighboring South Africa and Mozambique.

4. Advisory vs. Statutory: Institutionalization of the Traditional Leadership

The traditional governance in post-independence Botswana, Lesotho and Swaziland was substantially influenced by the extent of its submissiveness to the British indirect rule and by the resilience of traditional leaders, who either retained their legitimacy through straddling colonial and public interests or endeavored to monopolize power through various means. The power struggle between the colonial administration and traditional leaders have led to an era of medicine murders in Lesotho and to the revitalization of traditionalism in Swaziland, which became an embodiment of similar struggles between chiefs and new political elites in other African countries in the post-independence period. Being deprived of some of their key functions under the colonial rule, traditional leaders saw independence as a chance to regain their "inalienable" rights to land allocation based on an entrenched web of patronage. As evidenced earlier, the new political elite in Botswana, Lesotho and Swaziland was an embodiment of the political dynamics in the late colonial period, when the talks about the eventual independence led to the emergence of a relatively educated cattle-owner class in Botswana, a conservative and rather parochial group of principal chiefs in Lesotho and a group of exclusively traditionally oriented leaders loyal to the royal family in Swaziland. This section of the research will look at how the institutionalization of traditional leadership has shaped the distinctive nature of hybrid governance across the case studies. This process has been instrumental in forming a dual institutional setup (the modern-traditional one) which largely contributed to the degree of democratic transition that will be analyzed in the final chapter.

Defining a satisfactory position for the traditional leaders was a key challenge to the democratic state-building, since the tribal chiefs exercised considerable influence at the local level and could serve as vote-brokers when necessary. Here the discussion

of institutionalization of traditional governance, while entailing a broader process of defining state-traditional legitimacy and a possible scope of cooperation, will concern: 1) the legislative functions of the House of Chiefs in Botswana, the Senate in the bicameral Basotho Parliament and the Libandla-type Swazi Parliament, 2) their role in local governance and 3) the chiefs' right to allocate land.

4.1 The House of Chiefs in Botswana

It would be naïve to assume that the constitutional talks regarding the role and power of traditional leaders in Botswana were essentially peaceful or less controversial than those in Lesotho and Swaziland; however, a cooperative “grand coalition” was successfully forged in the talks owing to the ingenuity of Seretse Khama and his political coterie. Sebudubudu and Molutsi (2009) provide an insight into the different strategies used by the post-independence political elite for averting the possible detrimental effects of a wide-scale confrontation with the chiefs. The authors (pp. 18–20) argue that control and discipline (turning the tribal chiefs into salaried public servants), management by neutralization (appointing several non-chiefs into the chieftaincy), incorporation and integration (the chiefs were included in the local District Councils and they also participated in the newly established institutions like the Traditional Court of Appeal), and the gradual democratization of the chieftaincy (making traditional leaders an integral part of the democratic processes) were some of the strategies which facilitated a smooth disempowerment of the traditional leaders.

The Tswana chiefs reacted to the threat of losing power in different ways; some of them, like Chief Bathoen II, resigned and joined an opposition party for expressing dissent. However, due to the nature of the *kgotla*, the people were regularly consulted regarding the key issues, which made it less feasible for the principal chiefs to organize any wave of massive protest against Khama's reforms. The new political leadership soon identified those pivotal areas where curtailing the chiefs' power would curb their recalcitrance and thus form a state-traditional cooperative framework with the former having tangible advantages. J. H. Proctor (1968) provides a comprehensive analysis of the forming of the House of Chiefs, an advisory body to the National Assembly (the Parliament of Botswana), which was a watershed in the democratic transition. Proctor (1968, p. 62) contends that:

“[t]hey [the new elite] also felt that it would be extremely undemocratic and anachronistic to give delaying power over the whole range of legislation to a small group of men who held their seats merely by the accident of birth. Conflict between such a body and a popularly elected, forward-looking assembly was inevitable and could not be tolerated in the modern world.”

The chiefs were denied any legislative power to enforce or block proposed changes; however, their institution was deemed to be “a constitutional channel through

which the interests of the hereditary rulers and their more conservative subjects might find expression” (ibid., p. 64). The House of Chiefs was thus formed as an advisory body, with the chiefs having a right to initiate laws and/or amendments based on the public opinion voiced at the *kgotla*. Acemoglu et al. (2011, p. 15) argue that one of the most crucial decisions in this respect was the 1967 Mines and Minerals Act, which vested mineral rights in the national government instead of the Principal Chiefs. This Act was especially important for at least two reasons: the right to mineral extraction and allocation was previously vested in the tribal chiefs, which allowed for further expansion of clientelism and patronage, and since Seretse Khama was originally from the mineral-rich Bangwato tribe, his initiative incentivized other Principal Chiefs to overcome their personal agendas for the sake of the national interest. The Mines and Minerals Act allowed the newly elected government to start a lucrative negotiation with De Beers in 1969, which “gave Botswana a major shareholding and a place on the board of De Beer” (Robinson and Parsons, 2006, p. 113).

As noted earlier, land ownership and a right to allocate grazing land were regarded as the chief’s privileges, which acquired additional significance in the land-scarce and drought-prone Southern African countries. Managing tribal land and stripping the chiefs of the power to allocate land was perceived as a decisive step in fostering the state capacity in this regard. The Tribal Land Act of 1968 and the Tribal Grazing Land Policy of 1975 not only reduced the chiefs’ control over land allocation, but also incentivized private land ownership (Sebudubudu and Molutsi, 2009, pp. 20–21). Further decentralization was witnessed through the creation of the District/Urban Councils, the District Administration, the Land Boards and the Tribal Administration, where traditional leaders rule together with elected personnel. However, far from enjoying an unlimited power in these local institutions, the chiefs came under the direct scrutiny of the central government, which meant that in case of them abusing their power or overriding the decisions made at the *kgotla*, they would be fired (Dipholo, Tshishonga and Mafema, 2014, p. 21).

It can be argued that granting solely advisory functions to the House of Chiefs, and reducing the chiefs’ hold on mineral rights and land allocation have been conducive to a smooth transfer to political decentralization, which is still a key challenge in Lesotho and not even on the agenda in Swaziland. The state-traditional institutional hierarchy is succinctly echoed in Section 4 of the Chieftaincy Act of 1966: “A Chief is an individual who has been designated as a Chief in accordance with customary law by his tribe assembled at the Kgotla; and has been recognized as a Chief by the Minister” (Government of Botswana, 1966). We can assume that this statement embodies a specific type of hybrid governance in Botswana, where the traditional consensus-making platform is merged with the modern state institutions, and where the former complements the state capacity (formal-informal institutional interaction based on Helmke and Levitsky).

4.2 Whither the Principal Chiefs in Lesotho?

The power struggle in the post-independence Lesotho was different from the similar processes in Botswana and Swaziland, since in this case the emergence of a new political elite was obscured by the forming Basotho national identity. Weisfelder (1981) takes a closer look at the placement system of chiefs introduced by Moshoeshoe I and the country's continued economic dependence on the South African remittances, which transformed Lesotho into a state where tribal division and socio-economic disparity were two of the major impediments to independence. However, as Irving Markovitz (1977, pp. 199–201) argues, an emergence of an “organizational bourgeoisie” (the bourgeoisie which emerges when an absence of production instruments leads to a power concentration in the hands of politicians, bureaucrats, traditional leaders, professionals and small entrepreneurs) did happen in Lesotho and resulted in the emergence of a handful of principal chiefs, who had little contact with the wider population and were largely incapable of steering the country's economy even amidst the wave of international aid. Francis Makoa (2004, p. 85) notes that the “mediated deliberation” espoused by the powerful elite institutions, which is an important precondition for independence, was missing in Lesotho. The author thus contends that the independence constitution (for instance, unlike the Lobatse Constitutional Talks of 1963 in Botswana, which became a defining moment for the national consolidation) was perceived as an imported phenomenon from the colonial legacy rather than a deliberated discussion about the country's future.

Political infighting and, later on, the electoral victory of the BNP made clear that the premise of the newly independent country would be a strongly institutionalized traditional governance, which was then enshrined in the Westminster model of parliamentary government. Soon after gaining power, Chief Jonathan, as the first Prime Minister of Lesotho, abolished the District Councils as a part of the colonial legacy. As for the 1969 Local Government Act, the District Development Committees (DDC) and Village Development Committees (VDC) were introduced, which ostensibly aimed at political decentralization, albeit these institutions further entrenched the chiefs' powers as they were appointed as heads of the committees (Mofuoa, 2005, p. 4). The democratic transition in Lesotho was impeded by a number of factors, including a total neglect of the rural areas and a power concentration in the urban political elite, a disregard for the independence constitution, banning of political parties as anomalous for Basotho politics and an absence of civilian control over the military. The higher stake given to the Principal Chiefs (22 of them representing major Basotho tribes) through their position in the Senate (the upper chamber of Lesotho's bicameral parliament) enabled them to ratify, approve and/or reject proposed bills. Moses Daemane (2011, p. 168) offers a comprehensive analysis of the decentralization challenges in Lesotho with the Principal Chiefs having a substantial role to play in this process: “Most of the

Ministers are appointed from the National Assembly and [a] few from the Senate. Some of the Ministers are then appointed to form the ruling cabinet. The monarch system is in such a way that (22) principal chiefs rule over wards, [and] (1200) customary chiefs under the principal chiefs look after demarcated areas in the ward with the help of (506) village chiefs/headmen in the communities.” Since decentralization entails administrative, financial and political aspects, the chiefs at the local level, much like in Botswana, are salaried public servants whose tenure depends on their accountability, which inherently contradicts the views of the Principal Chiefs regarding their hereditary “appointment” Daemane (pp. 169–170). further notes: “The senate mainly consists of conservative principal chiefs[;] this structurally and by default, puts chieftaincy as a legal delaying procedural opposition to democratic reforms. Power struggle is also created between the two houses, whereby the Parliament seeks expedient reforms while the Senate chieftaincy remains conservative seeking to maintain the status quo of concentrated traditional-political power on chieftainship.”

Another important aspect of chieftaincy in Lesotho lies in the right to land allocation. The regulation concerning land allocation dates back to the Laws of Lerotholi from the early 20th century, according to which land was held in communal ownership, and a Principal Chief delegated the right to land allocation to the local chiefs. Thus, the notion of “[I]and is vested in the King in trust of the Basotho Nation” was enshrined in the independence constitution. However, it should be noted that during the first two decades of independence, the King was mostly stripped of his rights, and on certain occasions, he lived in exile (for instance, after the electoral defeat of the BNP in 1970, King Moshoeshoe II was first detained under house arrest and then lived in Holland in exile for several months) and thus, the Principal Chiefs “took responsibility” for decisions regarding land allocation. The Land Act of 1972 vested the right of land allocation in Land Committees, which were presided over by the gazetted chiefs, who remained in office as long as they were aligned with Jonathan’s BNP.

The Senate domination by the Principal Chiefs and their active attempts to promote chiefs at both the District Councils and Land Boards considerably impeded both political decentralization and equal access to land. Nevertheless, due to the grave consequences witnessed during the state of emergency which lasted for 15 years (declared by Leabua Jonathan in 1970) and external pressure, especially from SADC and Britain, there was a process of gradually curbing some of the customary rights of the chiefs.

4.3 Suppression of Dissent in Swaziland

The political transition in post-independence Swaziland can be regarded as a logical continuation of the power usurpation by the royal Dlamini family under the guise of a traditional narrative. The pervasive influence of tradition on the independent

Swazi state requires a thorough analysis, as such an analysis would help us to understand the rather anomalous nature of the power distribution between the state and traditional institutions. Hence, this section gives a more detailed analysis of the issue.

Since the party system formation discussed earlier was effectively monopolized by the Imbokodvo National Movement under the auspices of Sobhuza II, a real power struggle between the modernists and conservatives had not taken place until his death. However, this process was limited to a narrow political elite within the royal family and it had nothing to do with the interests of the Swazi population. The Westminster-style Swazi Parliament, commonly referred to as the Libandla, much like the bicameral Basotho parliament, consists of a Senate and a National Assembly, whereas the right of the Ingwenyama to appoint members in both chambers and the quasi-traditional system of Tinkhundla enshrined in the Swazi constitution offer significant departures from a democratic understanding of representation. Millard W. Arnold (1984, p. 4), in his analysis of Swazi transition, notes: "Sobhuza had carefully steered the country between the siren call of rampant modernization and the hypnotic lull of traditionalism." Magongo (2009, p. 20) further argues: "Political activity in Swaziland is largely the product of interaction between traditional and modern elements and the forces that regulate the content of such tradition. The monarchy occupies a pivotal position that can be likened to a siphon through which all activity is filtered, monitored and controlled." Sobhuza's aptitude for undertaking modern reforms is highly debatable since his decision to repeal the independence constitution and ban political parties consequently left little space for progressive ideas.

Institutionalization of the traditional authority developed in many different ways in Swaziland, though the controversial role of the Likoqo (a traditional institution comprised of chiefs and a few commoners) was the first important step in formalizing the traditional governance, which also led to the internecine conflict threatening the Swazi statehood. In June 1982 the status of Likoqo was elevated from that of an Advisory Council to the Supreme Council of State, which made it the only viable decision-making body in the country. Likoqo members were exclusively (s)elected by the King and the Queen Mother from among the royal chiefs to represent the Swazi nation as whole, since Sobhuza II predicated the concept of representation on the national unity, according to which politicians had to "rescue" people from unwanted consequences (Proctor, 1973, p. 277). Another crucial aspect of the post-independence Swazi politics was the land issue, which traces back to the White squatter problem in the colonial period, in which uncontrolled land concessions left Swazi land mostly in the hands of foreigners. Hamilton Simelane (2002) scrutinizes the land issue in post-colonial Swaziland and refers to the 1972 and 1973 Acts which led to a power concentration in the traditional leaders and the new middle class. Simelane (pp. 337–338) notes that the 1972 Land

Speculation Control Act aimed to “promote land accumulation by the indigenous leaders and by the new middle class” since the purchasing of Swazi land by foreigners and the transfer of land between Swazis became almost impossible and the traditional leaders were the only group who had enough capital for land purchases. This act was soon followed by the Vesting of Land in the King Act no. 45 of 1973, which is important in two ways: this Act not only granted the privilege of land allocation to the King, but it also entrenched a clientelistic network of this process since the loyal chiefs became the custodians of this Act. Thus, administering Swazi Nation Land, which is ostensibly equally accessible for every Swazi citizen, became the exclusive privilege of the sikhulu (local chiefs), who allocate land based on the given persons’ allegiance to the royal family. The hold on power of the traditional authorities was further strengthened by the creation of Tibiyo Taka Ngwane in 1968, the foundation principle of which ironically states: “Tibiyo is owned by the Swazi Nation. Every Swazi National is an owner in Tibiyo – even those born today. All Swazis have the right to know about Tibiyo activities – how it works and what it does. As in all national matters, all Swazis have the right to appeal to the King with any query about the activities of Tibiyo” (Levin, 1990, p. 57). Nevertheless, Tibiyo is the only company in Swaziland which “is not required to publish its accounts, undergo government audits or pay taxation” (Magongo, p. 30) and is exclusively managed by traditional leaders appointed by the King. The political transition in Swaziland can be divided into the Sobhuza and post-Sobhuza periods: in the Sobhuza era (before 1982) the Liqoqo was transformed from a purely advisory body into a statutory one capable of influencing and controlling the activities of ministers and parliament; administering Swazi Nation Land became an exclusive privilege of the Ingwenyama and his loyal chiefs through two subsequent Acts; and the vesting of minerals in Tibiyo made it a clientelist heaven for the royal family. The post-Sobhuza period was mostly marked by the infighting between the Principal Chiefs and Princes within the Liqoqo, which resulted in the formation of the triad of the King, the Liqoqo and the Libandla as the main governing force of the country (Magongo, pp. 37–39). The Parliament is currently reduced to enacting legislation and conducting debates and it is only with the consent of the King that laws can be passed. The chiefs responsible for land allocation and customary justice at the local level are directly appointed by the King based on their allegiance, which makes them accountable only to the Ingwenyama, and this practice thus questions the prospect of political decentralization and public participation at the local level. Laurence Piper (2011, p. 41) notes:

“80% of [the] Swaziland population live in rural and semi-urban areas. The administration of these areas falls in the authority of the Chiefs, who are traditional authorities and the representatives of the King at the local level. The chief obtains his position by virtue of customary law and hereditary standing to that particular society, they are non[-]salaried and head up law, economic[s] and rituals in the area. This

implies that getting into a position to influence policy at the local level in the tinkhundla is conditioned on the hereditary status (chiefs) of elected representatives.”

Such a narrative can help to shed light on the degree of political decentralization and local governance accountability in post-independence Swaziland. The hereditary chieftaincy in charge of the local governance not only questions the accountability of this institution, but it also challenges the “common knowledge” that tradition as an intermediary between state and society can help to increase public participation.

5. Democratic Transition: What It Entails in Southern Africa?

Before advancing to the analysis of democratic transition in Southern Africa, it is important to bring clarity to what political transition largely entails in the regional context. O'Donnell and Schmitter (1986, p. 3) argue that “transitions are abnormal periods of ‘undetermined’ political change in which ‘there are insufficient structural or behavioral parameters to guide and predict the outcome.’” This assumption, which presents transition as a rather chaotic and spontaneous process, partly jettisons the importance of the already existing political culture, institutions and social classes, which Bratton and Van de Walle consider to be of utmost importance. As these authors (1994, p. 456) contend, the contingent approach to transition developed by O'Donnell and Schmitter implies that “[p]olitical outcomes are driven by the short-term calculations and the immediate reactions of strategic actors to unfolding events.” While the substantial merit of the contingent approach cannot be discarded, it might prove insufficient for studying similar processes in Africa in which a post-independence political elite was rather tied up with the colonial legacy and within an embedded institutional dualism. Terry Lynn Karl (1990, p. 5) is more cautious about the role of preexisting social norms and institutions, and in her analysis of democratization in Latin America she notes: “Even in the midst of [the] tremendous uncertainty provoked by a regime transition, where constraints appear to be most relaxed and where a wide range of outcomes appears to be possible, the decisions made by various actors respond to and are conditioned by the types of socioeconomic structures and political institutions already present.” Karl's assumption is particularly applicable to the post-colonial democratic transition, where the predictability of the outcome is largely conditioned by the pre-colonial social structures and their integration into the colonial system.

While the social and political changes evidenced in Botswana, Lesotho and Swaziland can be attributed to the post-independence policy trajectories pursued by the substantially different political groups discussed earlier, the political dynamics of the colonial period have at least an equally important stake in the

process. Juxtaposing so-called contingent and structural contingent approaches with the democratic transition makes clear that the patrimonial foundation of the African societies, where daily issues are managed through a powerful web of patronage, requires a hands-on analysis where a Western-centric approach might lack validity. The notion of democratic transition is far from being unanimously accepted in the examined countries and it largely varies from a minimalist understanding (competitive elections) to a more inclusive understanding in which elections are complemented by a myriad of democratic tenets. Concessions made for the nascent democracies mostly attach an exaggerated importance to the multiparty elections, whereas a weak opposition and a weak civil society, media censorship, and limited funding for the opposition parties can profoundly affect the quality of such elections. Patrick Chabal (1998, pp. 290–292) notes that the democratization in Africa is a complex process susceptible to both internal and external changes; however, the major reason why most African states failed in delivering democracy soon after gaining independence was that their governments were increasingly tempted to use “sheer force” for maintaining power. The author (pp. 296–299) further elaborates on the instrumental, institutional, cultural and historic approaches to African democratization, albeit institutional and cultural factors tend to explain the peculiarities of African democracy most accurately: “Beyond this, it is argued, there must be three institutional mechanisms at work: (i) a structure of representation; (2) a working parliament; and (3) an effective system of direct political accountability” whereas cultural theory entails “(i) a democratic mentality; (2) a culture of representation; and (3) a notion of accountability.” Chabal’s narrative is important as it enables us to see how democratization is connected with some of the issues we discussed earlier: 1) Did the “personal democracy” of Seretse Khama and the public participation through traditional institutions in pre-colonial Botswana and partly in Lesotho facilitate democratic transition across the countries to a varying degree? 2) How much does the traditional understanding of representation proposed by Sobhuza II account for the limited public participation witnessed for twenty years after independence? 3) Can a system of “checks and balances” imposed on the traditional leaders in both pre-colonial and colonial Botswana be regarded as a logical continuation of executive accountability in the post-independence period (which was not the case in Lesotho and Swaziland)? 4) How much did granting legislative functions to the chiefs in Lesotho and Swaziland undermine the viability of their parliaments and transform them into mouthpieces of government propaganda? Answering these questions is pivotal for understanding the nature of the democratic transition across the case studies.

According to Przeworski (1991, p. 10), “democracy is a system in which parties lose elections”; however, as he further notes, what matters for a study of democratic transition is a focus on competition. However, one might ask how much the

electoral competition can account for democratic transition when, for instance, due to a lack of public funding opposition parties have limited outreach, or when party defection, though being conducive to multipartism, can undermine rather than strengthen democratic transition. Nonetheless, the electoral competition in the newly independent states, where competition as a means of effective and accountable governance never existed, primarily because of the unquestioned acceptability of the traditional institutions, is an integral part of democratic transition. As this work concerns the role of traditional governance in democratic transition, the discussions of multiparty electoral competition will not only include analyses of the contestant parties, but also reflect on their pro/anti-chieftaincy stances.

The post-independence political elite in Botswana, Lesotho and Swaziland faced the formidable challenge of giving up some of the traditional dogmas, which regulated every aspect of daily life and politics before independence; however, now they seem substantially incompatible with democratic transition. The electoral competition which was initially endorsed by the dominant political groups in each country, soon turned out to be a façade of a conservative, pro-chieftaincy narrative. Pule (1997, p. 120) argues that the political elite has a profound role to play in democratic transition through adhering to the Constitution and engaging in the power sharing whenever it is necessary. This author (p. 121) further notes: “The losers must accept defeat, and winners must be gracious in victory.” Once again, having a traditional background in mind which “prefers” ascription to achievement, acknowledging electoral defeat should be considered as another pillar of democratization.

As evidenced earlier, the post-independence politics in all three countries was dominated by traditional leaders: Seretse Khama was a chief of the Bangwato tribe (the largest tribe in Botswana), Leabua Jonathan was a Principal Chief and Sobhuza II was a Swazi Inwenyama. Such pervasiveness of traditionalism at the higher echelons thus raises an important question: if tradition became so entrenched in the transition process, how feasible was it to impose constraints on the executive, and more interestingly, how viable was the concept of traditional legitimacy in a democratic transition context?

6. Electoral Competition and Responses to Electoral Defeat

This section will present all the available parties in Botswana, Lesotho and Swaziland which were formed either on the eve of independence or right before the first general elections. Swaziland had the most parties of this sort (the Ngwane Liberatory Congress, the Swaziland Progress Party, the Swaziland Democratic Party and the Imbokodvo National Movement), followed by Botswana (the Bechuanaland

People's Party, the Botswana Democratic Party and the Botswana National Front) and Lesotho (the Basutoland Congress Party and the Basutoland National Party). However, what makes this case interesting and arguably distinct from a conventional analysis of electoral competition as a benchmark for democratic transition is that all the parties basically revolved around three key models – pro-chieftaincy, hybrid governance and anti-chieftaincy.

6.1 Swaziland

Paradoxically, Swaziland, despite having the highest number of parties, made the least successful attempt at holding multiparty elections, which was conditioned by the ultra-traditionalist narrative espoused by the royal Family.

As discussed earlier, the Imbokodvo National Movement was a quasi-political party which attempted to promote chieftaincy as the only viable form of governance through upholding traditionalism as a primary source of legitimacy. One illustrative example of the Swazi “electoral competition” can be drawn from a tribal plebiscite on the eve of independence, which determined that the Swazi traditional leadership had greater authority than any other form of governance proposed by the British government: “The essentially illiterate Swazi electorate were given a choice between the symbol of a lion, the crest of the royal house and the symbol of a reindeer, an unknown animal in Swaziland” (Potholm, p. 315). Ironically, the electoral results suggested that 102 per cent of the population voted for the lion, and 3 per cent for the reindeer (ibid.). While this event speaks for itself, its long-term repercussions were soon evident when the same practice continued in the first general elections. The support of the rural population for Imbokodvo was guaranteed by the local chiefs, who, as trustees of the royal family, were in charge of land allocation (Levin, p. 55). The tolerating of “electoral competition”, though, did not last long, as the Swazi Ingwenyama soon acknowledged that a possible external pressure to allow a multiparty system could have undermined his traditional authority. An inventive solution came soon after the 1973 general elections: when the anti-chieftaincy Ngwane Liberatory Congress won just three seats out of twenty-four, Sobhuza II dissolved the parliament, banned all political parties and repealed the constitution. The supposed incompatibility of the electoral competition with the Swazi traditional way of life was used as a justification for this step by the monarch, and it was subsequently endorsed by the chiefs and the wider population. The short-lived and largely distorted multipartism in Swaziland (1965-1973) was soon transformed into a one-party system which substantially undermined the country's democratic transition.

6.2 Lesotho

Lesotho had a relatively more successful start in 1965 as the BCP and the BNP took part in a fair electoral competition; however, despite popular expectations, the conservative, chief-dominated BNP won.

While the election results were contested by the BCP, and the High Court also overlooked some of the grave violations on the election day, it can still be argued that during the first five years (1965–1970) Lesotho was a “fledgling democracy” (Monyane, 2015, p. 14). Dominated by urban chiefs, the BNP leadership soon abolished the already existing District Councils and empowered its loyal chiefs at the local level. Analyzing a need of the BNP to find its support among the traditionally-oriented rural population Weisfelder (1999, p. 51) explores the “ruralizing variable”: “the flexibility of the urban-based party leaders in playing down modernizing objectives to appeal to the traditional sector.” The first post-independence election in 1970 was seen by the BNP as an inevitable victory, and as one of the party leaders noted with confidence, “How can we lose the match? The ball is ours, the jerseys are ours, the field is ours, the linesmen are ours, and more important[ly], the referee too is ours” (Khaketla, 1972, p. 206). This confidence was shaken soon after the election results, however, as the BCP won, and its victory was seen as an open attack on the Basotho traditional institutions. It was thought that the only way to rescue the chieftaincy was through repealing the independence constitution and banning political parties. 1970 was a watershed in Lesotho’s embryonic democratic transition since it ushered the country into a 15-year one-party state. Leabua Jonathan’s decision to suspend multi-party democracy was soon followed by an open attack on the former opposition and the civilian population: “BCP candidates for parliament were caught and severely beaten by the police. In the end some of the victims died or lost [their] sound health as [a] result [...] of the severe beatings. Among those who went to prison were 37 students of the University of Lesotho, Botswana, and Swaziland” (Machobane, 2001, p. 26).

Leabua Jonathan’s attempt to move to a one-party state under a chieftainship seriously impeded the country’s democratization for several decades to come. Leeman (1985) summarizes Jonathan’s politics as an attempt to create a one-party state where the government would be exclusively filled with his loyal followers, and which would be backed up by Basotho traditionalism (*quoted in* Monyane, 2005, p. 23).

It can be argued that Lesotho’s transition over a 20-year period was divided into the “fledgling democracy” between 1965 and 1970, and the subsequent 15-year one-party rule that was dominated by Leabua Jonathan’s traditional-conservative politics. Such an admix of post-independence transition had a profound effect on the way democracy developed in Lesotho (Monyane, p. 12).

6.3 Botswana

The success story of Botswana in terms of democratic transition, an uninterrupted cycle of electoral competition and political responsiveness to electoral defeats has been a focal point of academic research for several decades already. The political elite's ingenuity, the economic surge after the exploration of Botswana's vast diamond deposits, and the country's neutrality in regard to the apartheid South Africa are some of the issues which were studied in the democratization context.

The role of the neatly balanced hybrid governance pursued by the Botswana Democratic Party is acknowledged, though under-researched. The BDP victory in the 1965 general election was partly determined by the fact that unlike the conservative BPP and BNF, the Democratic Party was the only party which had representative offices in every constituency across the country. "A grand coalition of the strategically well-placed and privileged leaders" (Sebudubudu and Molutsi, 2009, p. 14) proved to be the most appealing option to the wider population because of its inclusive nature. However, the fact that Seretse Khama was a chief of the biggest Tswana tribe and was ready to make concessions to the traditional leaders in terms of their role in local governance and customary law, attracted most of the chiefs, though some disgruntled traditional leaders either resigned and became public servants or joined opposition parties. Roger Charlton (1993, p. 332) notes the importance of the BDP leadership in straddling traditional and modern state elements for guarantying electoral support:

"Centered on Seretse Khama, regarded as a rightful chief of the numerically important Bamangwato of [the] Central District, this grouping made astute use of both ascriptive status and Tswana cultural chauvinism and imperialistic tendencies to cement a following that was both genuinely national in its scope- drawing support from all parts of the country- but also regionally concentrated in specific strongholds within the tribal heartlands of rural [areas] and village[s] in Botswana."

The electoral competition, which was never questioned in Botswana's 20-year transition period, can be well traced back to the Tswana culture predicated on consensus, non-violence and serenity. As mentioned earlier, *Kagisano* – a Tswana term for unity, peace, harmony and sense of community - was embraced by the BDP leadership mostly because of its compatibility with democracy. Such an understanding of tradition becomes especially important if we make a comparison with how this concept was used in Swaziland and Lesotho for banning political dissent. The consensus-making nature of the *kgotla* became an integral part of the democratization, since it was a major platform for voicing political dissent and discussing rural problems. Taking into account that the BDP won all the general elections between 1965 and 1985 (five in total), it is particularly notable that the opposition parties never questioned the validity of the electoral results or resorted to violence in reaction to them like in Lesotho. It can be argued that such a peaceful

democratic transition was mostly due to the BDP's ingenuity in walking a tightrope between a modern, democratic state and Tswana tradition, as during this process the latter was acknowledged as an integral part of forming the Tswana nation-state and strengthening the state legitimacy, whereas the former was hailed as a right path to embark on:

"The success of BDP's strategy can be gauged by the fact that the party has gained a tacit political support of the majority of this politically crucial grouping [traditional leaders] without making any substantial concessions in its aim [to] markedly [...] reduce chiefly political powers." (Charlton, p. 335)

Considering the fact that the BDP never lost an election, we can only talk about a threat of losing power in order to assess the behavior of the political elite. Referring to the period between 1969 and 1984 is especially relevant here as it was marked by a high opposition success in the National Assembly Elections (in 1969 the combined opposition won 34% of the votes, compared to only 18% in 1965). Acknowledging a decline of support in the rural areas, mostly due to the chiefly patronage and poor infrastructure, the BDP undertook the "Accelerated Rural Development Programme, which involved extensive investment in infrastructure in the rural areas" (Acemoglu et al., p. 15). The assumption that the BDP found a way to strengthen its support even under the least optimistic conditions owing to its swift response to the changing political dynamics is corroborated by Charlton (p. 339):

"The outcome was an electoral strategy with an overt rural infrastructural spending bias matched by the award of selective and targeted benefits to the growing urban, and largely government-employed, electorate. Consequently, BDP cruised through the next two elections by dint of increasingly effective exploitation of the advantages of incumbency."

It can be concluded that Botswana's democratic transition was espoused by the rather tolerant, consensus-seeking Tswana culture, which allowed for the formation of a competitive electoral system. The BDP's ingenuity in appealing to a wider population through balancing traditional and modern approaches and its adaptability to the changing milieu was instrumental in shaping a political culture where the electoral success of a party depends on its past and current performance rather than on patronage and clientelism.

7. Constraints on the Executive

Constraints on the executive authority are one of the six components used by Polity IV for assessing a country's democratic/autocratic transition;⁵ however, some authors argue that this variable is the single most important one when analyzing democratization (Gleditsch and Ward, 1997, p. 369). It is of core importance to decipher how the political leaders, having emerged from a context of hybrid governance, were held accountable and to what degree tradition was (mis)used for this purpose. This part of the work will look at the institutionalization of the constraints imposed on the offices of the President in Botswana, King Sobhuza II in Swaziland and Prime Minister Leabua Jonathan in Lesotho and assess its importance in these countries' democratic transition.

7.1 Botswana

The democratic transition in Botswana, though laudable in many aspects and especially in the Southern African context, was somewhat compromised by the enormous constitutional powers conferred on the President. According to section 47 of the Independence Constitution of 1966:

"In the exercise of the powers conferred on him by the constitution, unless otherwise provided, the President acts in his own deliberate judgment and shall not be obliged to follow the advice tendered by anybody. The President controls the key apparatus[es] of the state such as the Army, [the] Police, Broadcasting and Information, [the] Directorate of Public Service [M]anagement, [the] Directorate of Corruption and Economic Crime, and Printing and Publishing. The President not only appoints cabinet ministers but also chairs its proceedings" (Government of Botswana, 1966).

The considerable executive powers vested in the President are highly contested by some and, for instance, Kenneth Good (1996) refers to the democratizing of Botswana as an "Authoritarian Liberalism" and talks about the elitist nature of this process, though I argue that such an approach can be rather one-sided and flawed. While it is true that a power balance between the governance branches and a viable system of checks and balances on the executive are an integral part of democratization, we have to be reminded of the specific socio-political conditions inherited by Botswana upon independence. Though Botswana is one of the poorest countries in the world with only two secondary schools and 12 kilometers of paved road (Acemoglu et al. p. 2), its outstanding record of economic success,⁶ democratic transition and state formation without any major incident of violence can be largely attributed to its strong presidential system. Seretse Khama's prudent policies have

5 The Polity Project, the Center for Systemic Peace,
<http://www.systemicpeace.org/polityproject.html>.

6 World Bank Data for Botswana, <http://data.worldbank.org/?locations=BW-XT>.

helped the country not only to avert the dampening effect of tribal conflict, the traditional-conservative milieu espousing patronage and patrimonialism and the plight of one-party rule, but it also shaped a trajectory of a developmental state for the country. While measuring Botswana's economic success goes beyond the scope of this work, it should be acknowledged how Khama's direct involvement in the management of its mineral wealth made it possible to avoid a "resource curse"⁷ and secured for his country a lucrative deal with De Beer – one of the biggest companies in the diamond manufacturing sector (Seidler, 2010, pp. 3–4). The President's power to transform chiefs into salaried public servants through the Chieftainship Act and the Tribal Land Act was instrumental in democratizing local governance, increasing the accountability of the traditional leaders and making land accessible for every Tswana without a "requirement" of allegiance to a chief. The reforms undertaken by Khama are well researched and considered to be an important precondition for Botswana's exceptional democratization and thus will not be covered here. Khama's personal democracy, backed up with his traditional legitimacy as a Bangwato chief, allowed for a continuation of public participation through traditional platforms and also kept his government accountable:

"Khama was able to establish a government that relied on a way of governing based on consensus. This derived from the pre-colonial institutions – which were not disrupted by the British colonizers - and have maintained the *kgotla*, a community meeting, which aims at determining the majority opinion about specific issues. The same kind of community consensus has been used by the Khama government to decide on social and politically sensitive issues" (Andrews, Khalema and Assié-Lumumba, 2015, p. 248).

While the constitution granted extensive executive power to the president and it could have been equally abused and misused for meeting the interests of a small elitist coterie, Seretse Khama's leadership ingenuity in dealing with politically key issues was pivotal for Botswana's democratization. As the work concerns a 20-year period of transition, we have all the evidence at hand to note that not only was Khama's government accountable and effective, but it was also instrumental in defining the country's democratic path.

7.2 Lesotho

The shift from a short-lived multi-party democracy to an authoritarian rule in Lesotho considerably affected its executive accountability and further widened its gap between state and society. Even though the King is the official Head of State in

⁷ "Resource curse[,] also called Dutch Disease ([the] term was coined after the decline of the Netherlands' manufacturing sector after the discovery of a large natural gas field in 1959)[.] The term resource curse generally describes the negative effect of resource abundance on economic growth. A resource led boom can lead to appreciation of the real exchange rate of the currency[,] which in turn reduces the international competitiveness of other sectors" (Seidler, 2010, p. 3).

Lesotho, here the tenure of PM Jonathan will be scrutinized since soon after 1970, King Moshoeshoe II was first under house arrest and then exiled in Holland, and thus his involvement in politics during that period was marginal. While the constraints on the PM between 1965 and 1970 were guaranteed by the independence constitution, this changed soon after the 1970 elections. As Khaketla (1972, p. 206) notes, after Jonathan refused to hand over the governmental power, “[t]he executive organ of the government suppressed the independence of the judiciary for testing the validity of the elections, as the allegations of ballot rigging were never tested in the courts.” Monyane (2005) offers a comprehensive analysis of how Jonathan gradually undermined the independence of the judiciary and legislative branches of the government, albeit it can be argued that it was an overt politicization of the military that profoundly influenced Lesotho’s political instability. Providing that the constitution was no longer in place to regulate the relations between the state institutions, Jonathan issued Lesotho Order N1, which aimed at vesting absolute power in the PM, and as Machobane (2001, p. 29) notes, after King Moshoeshoe II returned from exile, he had to take an oath to the BNP government-backed Order N1. According to Monyane (2005, p. 19):

“The order vested the executive and legislative powers in Tona Kholo and the Council of Ministers... Tona Kholo was ‘the person holding the office of Prime Minister under the Lesotho Independence Order immediately before coming into operation of this order.’”

As mentioned earlier, the King played only a marginal role in Lesotho politics between 1970 and 1985, and after the Order was introduced, Moshoeshoe II publicly stated that he would not get too much involved in the politics or let any political party manipulate his office (Machobane, 2001, p. 30). After getting a “full consent” from the King and the judiciary which meant that they would work closely with his party, Jonathan transformed the BNP youth wing into a paramilitary group which regularly attacked BCP leaders and supporters and damaged their office infrastructure. Another important aspect is the politicization of the police which started in the 1970s in response to the violent clashes between BCP and BNP supporters. This process was carried out by introducing the “*Sephephechana*” system, which meant that only card-carrying members of the BNP were recruited by the police, and by the late 1980s this structure was almost dominated by BNP members (Guzman, Das and Das, 2013, p. 38).

Having repealed the independence constitution, Jonathan gradually undermined all possible constraints on his office, which was further “legalized” by Order N1 in 1970. During Jonathan’s rule, ascription and selection became entrenched in every aspect of governance, especially at the local level, where his loyal chiefs were acting on whims at the expense of community well-being. Meanwhile, the *pitso*, as a traditional institution, arguably the only one of a democratic nature in Lesotho, fell into disuse and was hardly used for voicing discontent. It can be assumed that

during the 15-year period of the one-party state, constraints on the executive were almost non-existent in Lesotho, which gave Jonathan and his conservative BNP an unlimited power to rule.

7.3 Swaziland

The democratic transition in Swaziland, in case one would refer so to the ill-conceived electoral democracy there between 1965 and 1973, had distinctive signs of loose constraints on the King, who was hailed as a symbol of national unity. Already before the abrogating of the constitution, the Swazi land was wholly vested in the King; he was granted a right to appoint twenty out of the total thirty members of the upper chamber of the Swazi *Libandla*, though no decision could become legally binding without his approval. The traditional perception of the Ingwenyama as a foundation of the Swazi social fabric and national unity, whose power should never be questioned, was used astutely by Sobhuza II. Following the abrogation of the independence constitution in 1973, he ruled by decree until 1978, which was supposed to be the year of the introduction of a substitute constitution that was to be used until a better version of it would be accepted. As Magongo (p. 49) notes: “During that time [1973–1978] detention without trial, [and] the banning of political parties along with the repression of trade unions became tools for depoliticising Swazi society and crushing the opposition forces.” Soon after, Sobhuza II created a quasi-traditional institution – the *tinkhundla*, owing to which local governance was successfully brought under his control. The Swazi parliament, as a possible remnant of democracy, was overruled by the laws of the King’s Decree; any meeting of a political nature, including a peaceful demonstration or procession, had to be authorized by the Commissioner of Police (Dlamini, 2005). Lomakhosi Dlamini (2005, p. 2) notes:

“The Swazi monarch then assumed all executive powers previously granted by the constitution to the prime minister and the cabinet. From that day onwards, the king has been able to act wholly at his own discretion, consulting whomever he wished, not bound by law. The decree quoted above gave him the power to detain without charge, and for a renewable 60 days, any person deemed to be a threat to public peace. In addition, the courts lost all jurisdictions to deal with cases of detention.”

Tradition, as an ostensible source of state legitimacy in Swaziland, was embraced and, one might argue, radicalized by Sobhuza II for his own benefit. Through acquiring legislative functions, replacing the independent judiciary with customary law, appropriating Swazi land and vesting an exclusive right to land allocation in his loyal chiefs, subsuming local governance via the *tinkhundla* administrative system and banning all kinds of political dissent, either through parties or peaceful demonstrations, Sobhuza II unilaterally lifted all kinds of executive constraints. Nkonzo Hlatshwayo (1984, p. 34) argues that “the King’s Decree of 1973 banned

political parties, killed the whole concept of the separation of powers, weakened the role of the electorate and parliament, undermined the development of an engaging civil society and stunted public participation in governance.”

Having analyzed democratic transition through multiparty elections and executive constraints in the Southern African context, can we see any significance of traditional institutions/governance in facilitating or hampering this process? We have to be reminded that tradition is a continuum reflecting the socio-political changes that a certain society is undergoing; therefore while talking about “indigenous” culture or traditions, we picture a process through which tradition both affects and is affected by the changing milieu. The peculiar nature of the state-traditional institutional development which took place in Botswana, Lesotho and Swaziland in both the pre-colonial and the colonial period substantially shaped the nature of the hybrid governance upon independence. The historical narrative of how such an institutional dualism was forged is instrumental for understanding: 1) why and how Botswana’s democratic transition and political stability can be traced back to the consensus-making *kgotla*, the peaceful and non-violent co-existence with the minority groups reflected in the *kagisano* concept and the unprecedented system of checks and balances which prevented traditional leaders from abusing their powers; 2) why and how Lesotho’s ambivalent political transition, which can be roughly divided into the embryonic democratization between 1965 and 1970 and the following authoritarian one-party rule, can be explained by the co-existence of the rather democratic *pitso* and the corrupt, power-thirsty and unaccountable chiefs; and 3) why and how the triumph of tradition as a powerful means for mass mobilization against colonial rule entrenched political power within the royal family and subsequently legitimized a personal dictatorship in Swaziland. It would be misleading to talk about tradition as something inherently bad or good, since as it evolves over time, tradition absorbs a dynamic of societal change which makes it especially relevant for studying major political processes. Therefore, it is not tradition per se which determines the likelihood of democratic transition, but the way and the extent to which it is integrated into the state institutions. Can deciding on an “optimum” proportion of the state-traditional admix help us to both evaluate and predict democratization, and furthermore, can we thus design a hybrid governance in a way that it is more conducive to democratization? These questions, though relevant amidst a concerted effort to democratize African countries, might fall short of identifying a general trend across the continent, even in a relatively concentrated regional context. Rather than obscuring the already multifaceted concept of democratization, this work offers an alternative way of studying the issue from a relatively new perspective. An in-depth qualitative analysis of hybrid governance formation across the case studies shows that tradition as an innate source of legitimacy can contribute to democratic transition only when traditional institutions are sufficiently integrated into and subordinated to the state

institutions. Since traditional governance operates on a basis of patronage and ascription, which inherently contradicts the democratic principles of equity and election, we can assume that unless such institutions are transformed into competitive, merit-based and equally accessible social platforms, they are likely to dampen the democratization prospects. Referring to the case studies, can it be contended that modernizing traditional institutions would have prolonged Lesotho's democratization and prevented Swaziland from becoming an authoritarian state? The fact that tradition was used as a "legitimate" excuse by the political elite in post-independence Lesotho and Swaziland for abrogating the respective independence constitutions and undermining some of the most core values of democracy could warrant such a conjecture. The domination of the traditional narrative in party formation enabled the new political elite to entrench patronage through chiefs in local governance structures and the land allocation process. Furthermore, reliance on tradition as a primary source of legitimacy disrupted executive accountability, as now the political elite was not answerable to the results of the "ballot box", but to a coterie of chiefs who ensured that only acceptable voices would be heard through institutions like the *pitso* and the *Libandla*. Can the innate nature of traditional institutions, according to which they are prone to patronage and selection, warrant a conjecture that a higher importance of traditional institutions in relation to the state is less likely to render democratization?

The in-depth study of political processes amidst the state-traditional institutional dualism in Botswana, Lesotho and Swaziland enables us to make several important conclusions: 1) Hybrid governance, though capturing the characteristics of African governance most accurately, cannot be used for determining/predicting democratization per se. The co-existence of state and traditional institutions is a historical "offspring", and thus a thorough understanding of how tradition evolved in a certain society is an important point of departure for analyzing its compatibility with democracy. 2) Deciphering the political leverage gained by traditional leaders on the eve of independence can help us determine the likelihood of political transition and the role tradition will play as a rent-seeking tool in the given case. Empowering traditional leaders can be seen as conducive to democratization only when and if they are subordinated to the state, i.e. when they become salaried public servants. However, their legitimacy as custodians of tradition is to be preserved through indigenous platforms of public discussion and by practicing the customary law in order to prevent a legitimacy crisis of inchoate state institutions. The comparison of the democratic transition in Botswana with the partial democratization of Lesotho (it is safe to assume that there was a partial democratization in this case, as before 1970 Lesotho had promising signs of multiparty elections) and the Swazi authoritarianism (the period between 1965 and 1973 cannot be deemed as one of multiparty democracy, since as discussed earlier, the political parties were given substantially unfair conditions under which to

compete) enables us to make several conclusions. The domination of winning political parties, local governance structures, land allocation mechanisms and legislative bodies by the traditional narratives dampens the likelihood of democratic transition for the following reasons: 1) traditional leaders can tolerate electoral competition only as long as their parties win, and in case of their electoral defeat their hostile response will most likely be justified by the “elections are incompatible with our traditional way of life” argument; 2) having traditional leaders in charge of local governance and land allocation helps to entrench patronage, and in such cases chiefly allegiance is the only “merit” that allows one to have access to basic services; 3) traditional leaders dominating executive and/or legislative branches of government will likely endanger the democratization, since selection as a tenet of traditional governance “legitimizes” the chief’s lack of accountability (or, we could say, his accountability to a small group of loyal followers).

Conclusions

The information about the democratic transition in Africa is often transformed into generalized quantifiable data (Epstein et al. 2013) which risks losing substantively important information about the social fabric, indigenous culture and traditions that are instrumental in understanding not only how the African societies are undergoing democratization, but also how receptive they feel in regard to democratic principles. This work attempted to find an alternative venue for studying democratic transition in the Southern African context, where tradition as an innate source of legitimacy is coupled with legal-rational authority. Hybrid governance, being predicated on such an institutional dualism, rose to prominence in the 2000s; however, a robust comparative study in this field is still missing. As an important and effective tool for overcoming the state fragility/failure narrative, hybrid governance should be understood as a fluidity of a dual institutional setup where traditional institutions operate along with the fledgling state institutions, and in the best possible scenario, state capacity is gradually strengthened. While the end result of such a co-existence is largely conditioned by the strength of formal (state) institutions and the compatible interests of informal (traditional) institutions, this work studied a possible relation between the different levels of hybrid governance and democratic transition in Botswana, Lesotho and Swaziland.

This work, apart from providing a thorough analysis of hybrid governance formation across the case studies, endeavored to open a new research venue in the field of democratization. The research tackled an important analytical question: how much can the prevalence of traditional institutions within the hybrid governance dampen the prospects of democratic transition? This research, based on a most similar systems design (MSSD) model and covering the period between 1965 and 1985, analyzed an independent variable, i.e. the higher importance of traditional

institutions vis-à-vis the state, through the role of traditional leaders in party system formation and the institutionalization of traditional leadership predicated on the traditional leaders' role as legislators, land allocators and local governors. The dependent variable – democratic transition – was measured by two key indicators: (1) multiparty elections and responses to electoral defeat and (2) constraints on the executive.

Traditional governance in the democratization context entails a certain degree of ambivalence: it cannot be jettisoned altogether, as a fledgling state might risk losing its legitimacy without it, but if the state is subsumed under traditional institutions, we will face a continuous practice of candidate “placement” instead of merit-based elections. Straddling between those two ostensible extremes is a major responsibility of the political elite, and what makes such a decision more menacing is the unpredictable nature of tradition. The pliability of tradition, evidenced by the example of the Swazi *tinkhundla*, creates favorable conditions for manipulating public opinion, especially in the rural areas, where the general level of education can considerably differ from those of the urban centers. The hybrid governance pursued by the post-independence Tswana political elite, which clearly stated the supremacy of modern state institutions over traditionalism, enabled the country to enjoy uninterrupted regular elections; to increase the transparency of land allocation and local governance through transforming chiefs into salaried public servants; and to vest executive and legislative powers in elected officials, which considerably increased their accountability. Referring to the hypothesis, it can be assumed that the prospects of democratic transition can be explained by the nature of the state-traditional institutional setup forged on the eve of independence. More specifically, we can conclude that the complementary hybrid governance nurtured in Botswana was the most conducive to democratization since in this case, stronger state institutions managed to subsume and democratize traditional institutions. The partial democratization in Lesotho, operating on the principles of substitutive hybrid governance, can be attributed to a cooperation of relatively weak state institutions, the functions of which were mostly carried out by stronger traditional institutions. Swaziland, as the only examined country which did not undergo a democratic transition, experienced a competing type of hybrid governance, where traditional institutions, having interests that conflict with those of the ineffective state institutions, almost entirely subsume the latter.

This work aimed to contribute to the increasingly important field of hybrid governance in the developing countries, where institutional dualism (beyond the scope of these case studies, such a dualism might entail a wide range of informal institutions) is an everyday reality. Ideally, this piece of work on the Southern African countries will make a modest, though useful step towards understanding the relation between hybrid governance and democratization prospects, which will be especially helpful for international donor organizations in distributing aid most

effectively among local stakeholders. As a possible venue of future research, we can further look at how traditional institutions can be best used for strengthening state capacity at the stage of democratic consolidation and/or how educating/training traditional leaders might genuinely help to bridge the gap between state and society in the democratizing countries.

Tamar Lagurashvili is a graduate of the master's program in Democracy and Governance of the University of Tartu. She has also been participating in the master's program in International Relations and Political Studies at Charles University, Prague in the context of the Erasmus program throughout the 2016–2017 fall semester. After this exchange semester she has been an independent researcher intern at the Institute of International Relations Prague from January to May 2017. Contact: tamunalagurashvili@gmail.com

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