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GENDER EQUALITY IN TRADITIONAL LEADERSHIP IN SOUTH AFRICA: A NOSTALGIC DREAM?

Dlamini NC

Centre for Sociological Research and Practice, Department of Sociology, University of Johannesburg, South Africa

Abstract: Whilst considerable progress has been made to advance gender equality in South Africa, particularly in the modern democratic governance space, traditional leadership has remained relatively less responsive to calls for gender inclusion. Yet, women's participation in decision-making does not only have historical footprints in Africa, as espoused in much of the literature; it also has a potential to facilitate better performance of traditional authority and local municipalities and promote more credible and accountable local government. Although the literature advances several reasons to explain the near exclusion of women's participation in traditional leadership in the country, this paper argues that the primary factor associated with gender inequality in traditional leadership in South Africa is patriarchy. The paper maintains that patriarchy is a common denominator of much of the explanation for gender inequality in traditional leadership. It is argued, therefore, that understanding the gender issue from this perspective and the sustained yet routinized and systemic ways in which, through patriarchy, women are discriminated against, is critical to promoting women's participation in traditional leadership.The article relies on secondary data derived from a review of local and international peer-reviewed journals and research reports, including dissertations and databases of research and relevant public institutions. The data was scrupulously analysed and cross-checked to offset the disadvantages of secondary data to ensure credibility of the sources and data reliability and consistency. The article confirms that women's participation in traditional leadership is constrained by patriarchal biases against women and that promoting women's participation in decision-making in that institution of governance will evidently enhance performance of local government and quality of life in rural communities. The article concludes that attempts to promote gender equality in traditional leadership should not only focus on legal and administrative precepts but also the development of positive human factor, particularly among members of royal families and tribal communities.

Keywords: gender equality, traditional leadership, patriarchy, discrimination, human factor development, women empowerment

Introduction

"Freedom cannot be achieved unless women have been emancipated from all forms of oppression. All of us must take this on board, that the objectives of [our country] will not have been realized unless we see in visible and practical terms that the condition of the women of our country has radically changed for the better and that they have been empowered to intervene in all aspects of life as equals with any other members of society."

- Nelson Mandela (1994)

In 1994, the Constitution of the new democratic South Africa restored the dignity of all Black South Africans, without exception, by unequivocally recognizing the rights of all South Africans and upholding the principles of equality before the law; equal access to resources and services; and the

*Corresponding Author's Email: *lwazinduama1@gmail.com*

prohibition of unfair discrimination, directly or indirectly, against anyone on one or more grounds, including race, sex, marital status, ethnicity, social status, age, creed, conscience, belief, culture, language and birth (CGE, 2017). Since then, the post-apartheid South African government's socio-economic development and reconstruction agenda, has not only prioritised reducing the levels of poverty, inequality and unemployment but also deracialisation and the engendering of all institutions towards gender mainstreaming, with the object of building a democratic, non-racial and non-sexist society (Haffel, 2001).

Whilst considerable progress has been made, and is still being made to advance gender equality and equity in modern governance spaces, the traditional leadership fraternity has, particularly, remained relatively less responsive to calls for gender inclusion. Nearly three decades after the demise of apartheid the traditional authority sector continues to be male-dominated, which is a situation that is not only conducive for women to fully realise the fruits of democracy (Khonou, 2011; Sithole, 2010) but also creates a wedge between the attainment of freedom and women's emancipation that Nelson Mandela had hoped for in the quote above. Yet, women's participation in the decision-making process in the traditional authority sector, as widely documented, has the potential not only to facilitate a better performance of traditional leadership but also promote a more credible and accountable local government, equitable distribution of resources, especially land; and improvement in access to justice and prevention of sexual and gender-based violence (Chauke, 2015).

This potential is not only empirically confirmed in much of development literature in contemporary Africa but also in historical accounts of the significant role of women in the social, economic and political organisation in pre-colonial and colonial African societies (See Mawere, 2021; Achebe, 2018; Koenane, 2017 and Amoateng, 2005). In one instance, regarding contemporary African states, a study on child marriage reform law in Malawi found that female traditional leaders were more effective in bolstering support for child marriage reforms than their state or male counterparts (Muriaas, Wang, Benstead, Dulani and Rakner, 2019). In another instance, Chauke (2015; citing Mensah, Antwi, and Dauda, 2014) also mentions the significant role played by queen mothers who are co-rulers and share joint responsibility with the kings and chiefs in a "dual-sex" traditional political system of the Akan ethnic community in Ghana (Achebe, 2018).

To be fair, women amakhosi are occasionally appointed, albeit grudgingly, to regency positions. Such isolated appointments, however, do not significantly compensate for the struggles of women from the viciousness of patriarchy and discrimination (Amoateng, 2005). The backdrop of this observation is the fact that traditional authorities are statutorily recognized, and their status and role, including, the promotion of gender equality and non-sexism in their areas of jurisdiction, are clearly defined in accordance with the Bill of Rights and Chapter 12, 211(1)) of the Constitution of South Africa (CGE, 2017). Further to this, customary, cultural and religious practices cannot statutorily supersede the Constitution (CGE, 2017). It is therefore anomalous that gender inequality still persists in the traditional authority sector in South Africa.

Apparently, gender inequality in the traditional leadership context in South Africa has raised concerns, prompting questions on, for example, the legitimacy of traditional leadership institutions in relation to democratic governance in South Africa; and whether reforms were not overdue to address contradictions in the constitution and other legal-administrative and policy frameworks, which to a large extent, constrain progress towards gender equality in the traditional leadership sector, and other sectors of the South African society.

Much of the literature attributes gender inequality in the traditional authority sector to several factors, including the perceived incompatibility of traditional leadership and the modern liberal democratic system of the New South Africa (Mathonsi and Sithole, 2017); contradictions in customary law and gender equality rights (CGE, 2017);the dictatorial and despotic tendencies of male-dominated traditional leadership (Selepe, 2009) and the politics of accommodation and evasion (Rangan and Gilmartin, 2002); and that traditional leadership is not only a patriarchal and sexist system but also hereditary (Sithole and Mbele, 2010). Whilst these arguments are understandable and largely valid; what is missing is the fundamental factor underlying the biases against women in traditional leadership, which we argue, is patriarchy; and which in turn, is significantly underpinned by what human factor theory proponents, e.g., Adjibolosoo (1995a; 1995b) and Owusu-Ampomah (2011) refer to as human factor decay or negative human personality traits, such as greed, discrimination, self-centredness, selfishness, lust for power and/or control, sexism, oppression and subordination. The authors maintain that understanding the gender issue from this perspective is critical to promoting meaningful participation of women in traditional leadership in South Africa.

To advance this thesis the article illustrates (i) how women's participation in traditional leadership often takes place against the backdrop of subordination, discrimination, confrontation, hostilities and litigation, with patriarchy as the driving force against the prospects for transformation and women's empowerment in the traditional authority sector; (ii) the pernicious and insidious ways in which sexism continues to work against women, and the sustained yet routinized and systemic ways in which women are demeaned, discriminated against and subordinated because of their gender, in the context of traditional leadership, and (iii) how public platforms, structures and/or institutions of leadership are often used, consciously and unconsciously, to advance the patriarchal agenda to deny women of their rights and empowerment.

Methodology

The article relies on secondary data derived from a review of local and international peer-reviewed journals, the press and supra-national organisations documents; research reports, including dissertations and databases of research and relevant public institutions, including Commission for Gender Equality. The research reports adopted various methodologies. While some used quantitative methods of data collection and analysis, such as survey, others adopted the qualitative approaches including case studies, or both approaches, implying the mixed research methods approach. The existing statistical data was extracted and either used as they were in the research reports or statistically manipulated using Excel; and presented in absolute numbers or percentages in graphs and tables.

In the rest of the article, we provide a theoretical overview of patriarchy and its origins and Gender; next is the illustration of how patriarchy and its underlying factor, human factor decay - tends to influence and reinforce the biases in matters of gender equality in traditional leadership and democratic governance, drawing on (a) a comparative analysis of the politics of gender representation in Local and Provincial Houses of Traditional Leaders (PHTL) and modern democratic governance spaces, (b) traditional leadership succession cases involving women; and (c) women's access to resources, particularly land, with particular reference to widows, to deny women of their rights. In the final and concluding section of the article the authors provide concluding remarks.

Theoretical Overview

The article is informed by two key concepts: Patriarch and gender and its derivatives – gender equality and gender inequality - concepts that are invariably associated with women's participation in decision making at all levels of governance in general, and in this instance, in traditional leadership in post-Apartheid South Africa. First, we discuss patriarchy and its origins; and secondly, gender and its derivatives.

The concept of patriarchy, like many concepts, is defined differently by different scholars in different contexts. Boonzaaier and Sharp (1988, cited in Coetzee, 2001), for example, define patriarchy as a system of domination of men over women, which transcends different economic systems, eras, regions and class. On the other hand, Walby (1990:20, cited in Sultana, 2011:2) defines the concept as "a system of social structures and practices in which men dominate, oppress and exploit women". Defined as a system, patriarchy is thus "a social or ideological construct" and in that respect, debunks "the notion of biological determinism" (Sultana, 2011:2) or "the notion that every individual man is always in a dominant position and every woman in a subordinate one" (Walby, 1990: 1990: 20, cited in Rawat, 2014:44). Walby (in Rawat, 2014:44) further identifies six elements which are sources of exploitation and are interrelated, namely the household, paid-employment, male-on-female violence, sexuality, and cultural institutions.

Building on earlier theories of patriarchy, Facio (2013) defines patriarchy in a manner that virtually captures the broad elements of the system of patriarchy. She writes:

> "Patriarchy is a form of mental, social, spiritual, economic and political organization/structuring of society produced by the gradual institutionalization of sex-based political relations created, maintained and reinforced by different institutions linked closely together to achieve consensus on the lesser value of women and their roles. These institutions interconnect not only with each other to strengthen the structures of domination of men over women, but also with other systems of exclusion, oppression and/or domination based on real or perceived differences between humans, creating States that respond only to the needs and interests of a few powerful men."

According to Facio (2013), the key elements of patriarchy, as shown in Table 1, are gradual institutionalization, sex-based political relations, consensus on the lesser value of women and patriarchal institutions. As shown in Table 1, the term 'patriarchal institutions', for example, refers to a set of interrelated mechanisms/social structures that are also a set of beliefs, structures, myths, relationships, etc., which "make sure that patriarchy is invisible even to those women (who) suffer the most exclusion or at the most, make sure it is perceived as natural or simply as the way things are and always will be for women" (Facio, 2013: 3).

Facio (2013) acknowledges the widely recognized patriarchal institutions, including governments or states, the family or household, human languages, cultural institutions, universities, hospitals, business corporations and legal systems. She prefers to name these institutions with what she sees as "more appropriate names such as the Institution of Androcentric Law, the Institution of Misogynist Religion or of Sexist Language, of Malestream Media or Male-centered Science, etc.".

Table 1: Elements of Patriarchy

Elements of Patriarchy	Explanation
Gradual Institutionalisation	Indicates that patriarchy is a historical process and therefore not natural or biological.
Sex-based political relations	All kinds of relations between both sexes are political relations, through which men dominate women.
Consensus on the lesser value of women	A tacit and subconscious agreement amongst members of a community that women and everything relating to women is worth less than men, and everything relating to men.
Patriarchal Institutions	A set of inter-related mechanisms for the perpetuation of Patriarchy that are also a set of beliefs, structures, myths, relationships, etc. ***Examples**:* *Recognized by most patriarchal sociologists* Governments, the family, human languages, universities, hospitals, business corporations, and legal systems. *Others, not/least recognized* The Institutions of Male Solidarity, History with Capital H, Erotic Violence, Woman-Blaming Myths, male heteronormativity, dichotomous sexual beings, etc.

Source: Based on Facio, 2013.

Facio (2013) also identifies other characteristics which are least recognized, including the Institution of Male Solidarity, History, with Capital H, Erotic Violence, Woman-Blaming Myths, Male Heteronormativity, Dichotomous Sexual Beings, etc.

As an ideology, therefore, patriarchy manifests itself in its wider definition as a system of institutionalized male dominance over women, not just in informal institutions such as the family or household, but in all formal institutions in society. It is important to note, however, that women are neither totally powerless nor totally deprived of rights, influence and resources (Sultana, 2021; Lerner, 1989). Additionally, while not all men enjoy the same privileges or have the same power, they have a common interest in the subordination of women in all patriarchal societies (Facio, 2013; Sultana, 2011).

In a nutshell, patriarchy is a system of social structures characterized by male dominance, male identification, male-centeredness, and obsession with the control and exploitation of women. Patriarchal systems thus legitimize the inferiority of women relative to men; subordination of, and discrimination against women; and the state's "politics of accommodation and evasion that tends to reinforce gender biases…" (Rangan and Gilmartin, 2002: 633).

Origins of Patriarchy

Several theories have been advanced regarding the origin of patriarchy, and the central argument has been two-fold: That (i) men were born to dominate women, and this hierarchy cannot be changed; and (ii) patriarchy is not natural; it is a human invention and can therefore be changed (Sultana, 2011; Napikoski, 2021). Proponents of the former school of thought, often classified as the traditionalists, include the notable philosopher, Aristotle, and the famous psycho-analyst, Sigmund Freud. According to Sultana (2011) Aristotle held the view that the female was a mutilated male, and the biological inferiority of woman makes her inferior also in her capacities, her ability to reason, and therefore her ability to make decisions. In the field of modern psychology, however, "women's biology determines their psychology and, therefore, their abilities and roles" (Sultana, 2011: 4). In this regard, according to Sultana (2011), Freud maintains that women's anatomy is destiny. In other words, the normal human was male.

Sultana (2011, citing several scholars, including Engels, 1940; Brownmiller, 1976; Firestone, 1974; Beechy, 1977; Mies, 1988; Lerner, 1989 and Oakley, 1972) argues that these theories on the biological foundations of patriarchy are not based on any historical or scientific evidence. According to her, Engels (1940) for example asserted that both the division of classes and the subordination of women developed historically. He believed that women's subordination began with the development of private property, in the broader context of capitalism, when the world's historical defeat of the female sex took place, and men had access to power and property, which they preferred to bequeath to their children rather than wives.

On the contrary, however, while debunking the biological basis of patriarchy, the radical feminists (Brownmiller, 1976, and Firestone, 1974; cited in Sultana, 2011) argue that patriarchy preceded private property, and not with the development of private property as Engels (1940) postulated.

Interestingly, the debate on the origins of patriarchy is turned upside down by another socialist feminist school of thought which does not see patriarchy as the issue, but rather gender relations in which women experience subornation in various forms, e.g., oppression, discrimination, disregard, insult, control, exploitation, and violence in private and public spaces (Sultana, 2011). In this regard, the implied negative connotation of "patriarchy" as evident in modern societies makes a mockery of "the 'once positive ideal' of the father as the head and protector of the family" (Boonzaaier and Sharp, 1988:155, cited in Coetzee, 2001:300; and the co-ruler who shared authority and power with women in the dual-sex political system of precolonial African societies.

The question thus arises: how did this "once positive ideal of the father as the head and protector of the family" develop into a dreaded monster, at least in the eyes of women?

Coetzee (2001) firstly suggests that 'the ideology of patriarchy' seemed to have developed as a result of the elevation of 'the idea of the leadership of the fathers' to a position of paramount importance in society. He explains:

"This idea was, … absolutised (idolised) when it was promoted to the position of a hypernorm. This means that the idea of the father leading and protecting the closed circle of the family was extended to other spheres of society, and thus dominated all other forms of social discourse. The norm according to which the father headed the household now regulated all other man-woman relationships in society. It is important to note that the original ideal was not based upon the premise that women were

inferior, but most probably upon a loving relationship with the family circle where the husband protected and guided the mother, with her support. However, as a result of the elevation of this ideal to acquire hyper-normative status, women were regarded as inferior to men. An uneven power-relationship developed through which the male sex obtained supremacy over women, resulting in their subordination to men throughout society. The ideal of the 'supremacy of the fathers' thus gained hyper-power through which this relation of domination was kept intact. As a result of this, the intrinsic authority of women in all other appropriate contexts of life was relativised" (Coetzee, 2001:300).

The relativisation of women's intrinsic authority vis-à-vis the supremacy of male power was, and has been strategically maintained, primarily through violence in all its forms - from verbal, psychological, physical violence to sexual violence or murder - ostensibly, to preserve male power and dominance or avenge the loss of it. Thus, patriarchal violence is a collective term for the violence that is found throughout the world and that is rooted in the patriarchal power structures it defends (Habeas Corpus Working Group (HWCG), 2006). According to HCWG (2006), patriarchal violence is like an iceberg with only its stop visible: murder, rape and severe physical violence against women, children, LGBT persons, and such crimes committed in the name of honour. The Group maintains that less dramatic forms of violence are invisible, tending to be in accordance with traditional social norms and moral values, and the reason for their existence is hardly ever questioned.

Apparently, "patriarchy misuses power on the road to supremacy" (Coetzee, 2001:301). Coetzee (2001) further maintains that the distribution of power in a patriarchal society clearly demonstrates the issue of power relations with regard to gender, and illustrates his argument with Miller's definition, which maintains that power is in the hands of men in all societies:

"… our society … is a patriarchy. The fact is evident if one recalls that the military, industry, technology, university, science, political offices, finances – in short, every avenue of power within the society, including the coercive force of the police, is entirely in male hands" (Coetzee, 2001: 301).

Coetzee (2001: 301-302) then defines patriarchy as "a set of social relations between men, which have a material base, and which create interdependence and solidarity amongst men that enable them to dominate women". This is evident in all formal and informal institutions, and the institution of traditional leadership is not an exception. How this scenario manifests itself in traditional authority and democratic governance sectors in South Africa is illustrated in the next section.

Gender Inequality

The concept of gender is variously defined in the literature, and the differences may be attributed to several factors including differential disciplinary and ideological persuasions. From the WHO perspective, for instance, gender is "the characteristics of women, men, girls and boys that are socially constructed" According to the WHO this includes norms, behaviours and roles associated with being a woman, man, girl or boy, as well as relationships with each other (WHO Online).

In this article, however, we take a cue from the South African National Gender Policy Framework and posit that gender is differentiated from sex which is understood in a biological context. Interestingly, from both perspectives, gender refers to the social differences and relations between boys and girls, men and women. It may be noted, however, that

"Social differences and relations between the opposite sexes may differ from culture to culture, country to country, and change over time. This implies that differential social relations between boys and girls, men and women are environmentally acquired. Gender, then, is a social construct and its manifestation in terms of, for example, roles, power, responsibilities, needs, opportunities, rights, benefits, deprivations and constraints vary within and between cultures and/or countries. This variation in any social setting provides the foundation for gender inequality and disempowerment of females, which to a lesser or greater degree exists in all societies, particularly in patriarchal ones such as in India and … and South Africa …" (Owusu-Ampomah, 2011:12).

Gender equality thus implies that both men and women, boys and girls should have equal rights, responsibilities and opportunities, while gender equity implies the fair and just distribution of opportunities and resources between both sexes (UNFPA (Online)-2). Gender equality is thus a fundamental human right and that right is violated by gender-based discrimination, which then propagates gender inequality. Gender inequality is therefore discrimination on the basis of sex or gender, causing one sex or gender, in this instance women, to be routinely privileged or prioritized over another (UNFPA Online) as evidently observed in traditional leadership in KwaZulu-Natal, for example, in South Africa

Politics of Gender Representation

Manifestation of patriarchal biases and subordination of women in the traditional authority sector

The ideology of patriarchy, as observed earlier, is "a common denominator of the South African nation" (CGE, 1998; cited in Coetzee, 2001), and it manifests itself through various mechanisms - some of which have been discussed earlier - and in different ways in the private and public spheres. Walby (1990:24, cited in Sultana, undated) thus correctly identifies two distinct forms of patriarchy, namely private and public patriarchy. According to Sultana (Undated:9-10),

"Private patriarchy is based upon household production as the main site of women's oppression. Public patriarchy is based principally on public sites such as employment and the state. The household does not cease to be a patriarchal structure in the public form, but it is no longer the chief site. In private patriarchy, this expropriation of women's labor takes place primarily by individual patriarchs within the household; while in the public form, it is a more collective appropriation. In private patriarchy, the principal patriarchal strategy is exclusionary, and in the public, it is segregationist and subordinating. Above all, 'the state has a systematic bias towards patriarchal interests in its policies and actions'".

It can, thus, be discerned that there are instances where the manifestation of patriarchal biases, subtly or forthrightly, cut across both spheres, i.e., where in the private form, the "expropriation of women's labour takes place by individual patriarchs within the household, while in the public form, it is a more collective appropriation".

One of the instances of patriarchal bias and subordination of women in the public sphere, with specific reference to traditional authority, is in the representation of women in the provincial and national Houses of Traditional Leaders. In two studies conducted recently by the Commission for Gender Equality (CGE, 2017 and 2018), the Commission found that the extent of gender mainstreaming and transformation in the provincial and national Houses of Traditional Leaders is

largely similar.[1] The studies found, *inter alia*, that the levels of representation and participation of female traditional leaders, compared to male traditional leaders, were low in all the Houses of Traditional Leaders. The 2018 study reports, for example, that while other provinces ensured the inclusion of at least one female representative in their delegations to the provincial and national Houses, KwaZulu-Natal and Northern Cape had all-male delegations of representatives to the National House, despite the 30% legislative quota requirement for women's representation amongst representatives to both provincial and national Houses (CGE, 2018: 44).

The CGE further reports that in both the 2017 and 2018 studies, the levels of representation of female traditional leaders within the membership of a majority of the provincial Houses of Traditional Leaders were below the 30% legislated quota. According to the CGE (2018), only the National House had managed to exceed the legislative 30% quota of women's representation, which stood at a 35% representation in its membership at the time of the study (CGE, 2018: 44) (See Table 2).

Table 2: Women's Representation in Provincial Houses of Traditional Leaders, 2017 and 2018

Year	House of Traditional Leaders	Percentage (%)
2017	Eastern Cape	N/A
	KwaZulu-Natal	11.32
	North West	12.00
	Mpumalanga	19.04
2018	National	35.00
	Limpopo	25.00
	Northern Cape	27.00
	Free State	27.00

Source: Adapted from CGE, 2018:44

The low levels of women's representation are often attributed to the notion that "matters of succession are the exclusive preserve and discretion of Royal Houses, and that provincial and national Houses of Traditional Leaders, as well as the provincial and national departments of COGTA, have no control over the gender profiles of those appointed by the Royal Houses as traditional leaders" (CGE, 2018: 44). The backdrop of this explanation, which is not backed by empirical evidence, is that the National House of Traditional Leaders Act empowers the National House of Traditional Leaders to intervene and enforce gender transformation in the appointment of traditional leaders. Nothing else thus cogently explains the low levels of women's representation in the provincial and national Houses of Traditional Leaders, other than utter disregard for the legislative provisions premised on male-centredness.

[1] The Provincial Houses covered in the 2017 report were the Eastern Cape, KwaZulu-Natal, Mpumalanga and North West; whilst the 2018 study covered Limpopo, Northern Cape and Free State provincial Houses and the National House of Traditional Leaders.

Although, to be fair, whilst the disregard for legislative provisions is premised on male-centeredness,

"… the current legislation creates a loophole which allows provincial Premiers and the Minister of Cooperative Governance and Traditional Affairs to lower the threshold/quota for women's representation in instances where it is found that there is an insufficient number of female traditional leaders. This means that both the provincial and national houses could conveniently refer to this provision as a legitimate disclaimer to escape the legislative institutional imperative to promote gender equality and transformation within traditional leadership structures. They could therefore argue, on the basis of this legislative loophole, that gender transformation would be impossible to achieve due to the shortage of female traditional leaders. Many of the provisional houses are already putting this forward as the reason why they have been unable to make progress in the gender transformation of traditional leadership structures" (CGE, 2018: 45).

In this regard, it is fair to argue that the persistence of any observed structural weaknesses in administrative and legislative processes towards gender mainstreaming and transformation in the traditional authority sector, e.g., resource limitations and lack of coordination, accountability and coherence, provide an ideal realm for traditional authorities and especially the modern democratic governance system, dominated by men, to maintain "the policy of accommodation and evasion" (Rangan and Gilmartin, 2002: 633);, as well as the brazen continuity of patriarchal biases and women's subordination and subjugation.

Manifestation of patriarchal biases and subordination of women in the modern democratic governance sector

The plight of women in political participation in the modern democratic governance sector and business, generally, is not much dissimilar to what occurs in the traditional authority sector, although in some instances there is notable progress in the promotion of gender equality in that sector. For instance, the statistics for women's representation in the National Assembly of the South African parliament from 1994 to 2019 show an increasing trend, which was only interrupted in 2014 with a dip of 3% (13) from 43% (172) in 2009 to 40% (159) in 2014. Thus, between 1994 and 2019, women's representation in the National Assembly increased by 17% (n=67) (Table 3). However, despite the increasing trend over a period of 25 years, gender equality is yet to be achieved, notwithstanding the fact that South Africa ranks high in Africa and the world in women's representation in parliament and political participation generally.

Table 3: Representation in South Africa's National Assembly by Sex, 1994-2019

Elections Year	Women		Men	
	Number	**Percentage (%)**	**Number**	**Percentage (%)**
1994	111	28	288	72
1999	120	30	280	70
2004	131	33	269	67
2009	172	43	228	57
2014	159	40	241	60
2019	179	45	221	55

Sources: CGE, 2019a: 9; 2019b: 41

The statistics regarding the gender profile of ministers and deputy ministers follow similar trends as shown in Table 4. The data shows an upward trend in the representation of women in ministerial positions, rising from a low of 34% in 2004 and peaking at 50% in 2019, with a marginal drop from 41% in 2009 to 40% in 2014. Thus, in 2019, the country achieved gender parity - the ultimate goal - for the first time since 2004, at the highest level of political decision-making, i.e., the Executive arm of government in South Africa.

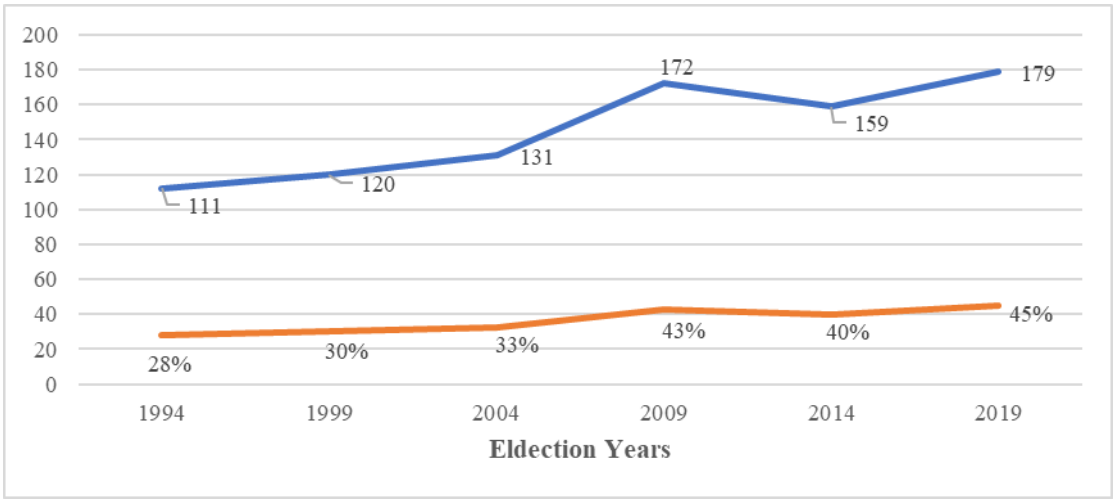

Figure 1. Women's Representation in South Africa's National Assembly, 1994-2019 **(Source:** *CGE, 2019a)*

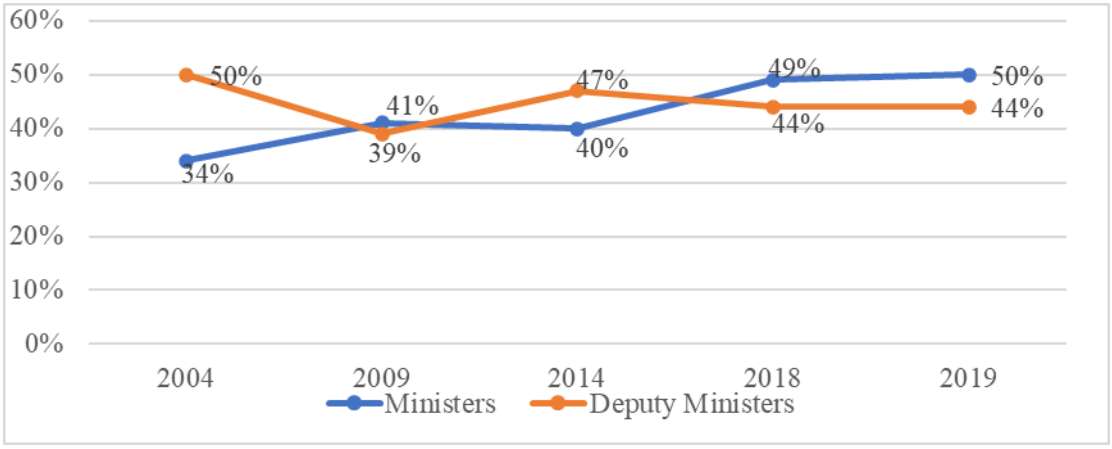

*Figure 2. Trends in Women Ministers and Deputy Ministers, 2004 – 2019 (***Source:** *CGE, 2019b)*

Regarding female representation in managerial roles in business, South Africa scores poorly compared to global trends. Women hold only 28% of senior management roles in business, with only 3% of companies having a female CEO, which is 5% lower than the global average of 8%. It is worth noting that 31% of South African companies have no women in senior management positions (Tsako, 2021).

Women, Customary Law and Resources: 'The Land Question'

In South Africa, the land question has been an emotive issue in all its ramifications in relation to Black Africans, especially Black African women. Studies on women's access to land, especially in rural areas, show that "(w)omen in South Africa remain the worst affected when it comes to land

dispossession and insecure land tenure" (Khuzwayo, Chipungu, Magidimisha and Lewis, 2019: 34, citing Waldron, 2018 and Claassens, 2014). While women were disregarded in the allocation of land in the homelands during the apartheid era, as they were considered as minors in land-related matters, legislation introduced in 1985 and 1988 to elevate women to the same legal status as men did not have the desired effect in customary law. Customary law excluded women and relegated them to minority status as far as land ownership was concerned (Weideman, 2004:365-568, cited in Khuzwayo, Chipungu, Magidimisha and Lewis, 2019).

In the dual land ownership rights system of the modern democratic governance in South Africa, statutory law (the South African Constitution) confers equal rights to all citizens regarding land ownership, implying that women have as much right and access to land as men. However, under communal land law, women's land ownership rights are subject to the discretion of traditional chiefs (men) who are the main custodians of rural assets and executioners of customary law, the majority of which is patrilineal. Apparently, with most of the land in rural areas invested in communities' or chiefs' trust, and given the patriarchal attitudes of men and assumed weak capacity of women in resource control, women's only means to limited and supervised land access remains a conscious or unconscious negotiation through the patriarchy system, which is supported by customary law (Khuzwayo Chipungu, Magidimisha and Lewis, 2019, citing Popoola and Magidimisha, 2019; Mutangadura, 2007; and Umaru Baba and van der Horst, 2018).

Therein lies a case of conflicting rights between statutory and customary law, which has inevitably impacted negatively on the post-apartheid South African government's land reform programme, and particularly women's land ownership rights, leading to the perpetuation of gender inequality in spite of the fact that customary law, as observed earlier, cannot supersede statutory law (The Constitution of South Africa, 1996).

The problem of gender and land rights, as some critics have argued, lies in the challenge of translating legal reforms into action at the local level where state reform efforts often conflict with customary institutions and local interests. Therefore, while legislation can be an important starting point for transforming local practices, the implementation stage is where the real challenge emerges (Lavers, 2017, 3, cited in Khuzwayo, 2019, 35). The challenge in this instance refers to conflicted and patriarchal traditional leaders, the main custodians of customary law in rural areas.

The Constitution and customary law contradictions also loom large in land inheritance for women in general, and zoom into numerous discriminations and abuses that widowed women are exposed to (Phillps, 2019 and Owusu, 2018). In a recent study, Owusu (2018), cited in Phillps, 2019) found that although South Africa had strong laws to protect the property ownership and inheritance rights of all women, these laws were often not implemented in rural Zulu communities, which profoundly prejudiced widows in many ways, particularly with regard to food security and property ownership. For instance, according to Phillps (2019), when a Zulu woman's husband dies, her movement is confined in accordance with customary law and she is not permitted to work the land for six months. If the husband's death occurs during the annual planting season, her food security and that of her dependents is threatened. Furthermore, with the patriarchal notion that widows and unmarried women whose fathers have passed away are incapable of looking after themselves, male relatives are allowed by culture to take ownership of the land and other possessions that belonged to their late husbands or fathers. According to Phillps (2019), all this would be happening as if the traditional leaders were unaware of the existence of the Constitution. Whilst some did know of anti-discrimination laws, they would choose not to implement them. Why? Phillps found that it was because, according to them,

they were not consulted when the Constitution was drafted and that their leadership was therefore ignored and undermined (Phillps, 2019).

Women, patriarchy and succession to traditional leadership position

Patriarchal biases and the subordination of women also often occur where women are involved in the line for succession to traditional leadership positions. Generally, disputes are integral to traditional leadership succession processes in African societies, as recently witnessed in the Zulu Kingdom where although a successor to the late King Goodwill Zwelithini has been installed, tensions still exist in the Zulu Royal Family.

The causes of traditional succession disputes are numerous, including attempts by regents to usurp the position of traditional leadership and the appointment of wives of a deceased traditional leader as regent, as well as subsequent attempts to usurp the position of traditional leadership on behalf of their minor sons. Gender, however, is also a significant factor in the equation (Bekker and Boonzaaier, 2008).

The succession of women to traditional leadership is very often challenged on the grounds of gender because it is seen as a violation of the customary rule of male primogeniture, which seeks to preserve the hereditary nature of traditional leadership and the genealogical line of succession. This succession rule was put to the test in the Constitutional Court of South Africa in 2008, and the outcome was widely hailed as an "advancement for the transformation of traditional leaders" (Nkasawe, 2008). The case in point is the succession battle between Ms. Felia Shilubana and her cousin, Mr. Sidwell Nwamitwa of the Valoyi tribe of Limpopo, which is widely reported in the literature, some of which are the sources for this section of the article (e.g., Bekker and Boonzaaier, 2008; Nkasawe, 2008; Mireku, 2010; and Chauke, 2015).

From the literature, one gathers that Mr. Sidwell challenged the Valoyi Royal family's unanimous decision to install Ms. Felia Shilubana as the next *Hosi* of the Valoyi tribe after the death of *Hosi* Richard Nwamitwa, Sidwell's father and Shilubana's uncle, in the High Court and the Supreme Court of Appeal. Invoking the male primogeniture rule, which denied Shilubana her right to succeed her father, Hosi Fofoza, who died in 1968 without a male heir and was replaced by his younger brother, Hosi Richard, until he also died in 2001, Sidwell claimed that as the only son of *Hosi* Richard, he was the legitimate successor. In the separate judicial cases, the High Court and the Supreme Court of Appeal ruled in favour of Sidwell, maintaining that the process of pronouncing Ms. Shilubana heir to the chieftaincy was contrary to the customary law (Chauke, 2015).

Dissatisfied with the judgements of the High Court and the Supreme Court of Appeal, Ms. Shilubana approached the Constitutional Court of South Africa. In a ground-breaking judgement, the Constitutional Court overturned the judgements of the High Court and the Supreme Court of Appeal and declared Ms. Felia Shilubana eligible for succession to leadership of the Valoyi tribe. The Constitutional Court "held that both the High Court and the Supreme Court of Appeal had failed to acknowledge the power of the traditional authorities to develop customary law so as to eliminate gender-based discrimination in the customary succession to leadership" (Bekker and Boonzaier, 2008).

The Constitutional Court's judgement has been largely welcomed because it "undoubtedly promotes gender equality by recognising the right of a woman to be appointed chief of a traditional community…" (Mireku, 2010: 523). In a critique of the judgement, Mireku (2010) lauds the

Constitutional Court's "judicial notice of a transformative initiative by traditional authorities which was later endorsed by the Limpopo provincial government"; and the Constitutional Court's acknowledgement that "customary law must be permitted to develop, and the enquiry must be rooted in the contemporary practice of the community in question" (Mireku, 2010: 520; citing the Constitutional Court). The Court asserted unequivocally:

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

While the Constitutional Court's ruling is undoubtedly historic and has the potential for a groundswell of impact, critics have raised concerns. Ntlama and Ndima (2009, cited in Mireku 2010), for instance, have criticised the Shilubana judgement, arguing, amongst other things, that the Court abdicated its responsibility to develop customary law, *shifting it, instead, to the traditional authority*, a party to the case (Emphasis Added). Mireku (2010), on the other hand, perceives as "unjustifiable" Ntlama and Ndima's (2009) accusation of the Court for what they see as a rejection of customary law principles and values at the expense of Western conceptions of human rights norms for outlawing male primogeniture. In this study's view, however, leaving the development of customary law to the discretion of male-controlled traditional leadership does not guarantee gender mainstreaming and transformation of the institution of traditional authority. For Bekker and Boonzaaier (2008), "this seems to be a *laissez-faire* attitude with dangerous implications", which ought to be nipped in the bud before they explode with casualties.

Conclusion

Women's participation in traditional leadership is not new in Africa. Women played a significant role in the socio-economic and political organisation of pre-colonial African societies, and continue to be "a key driving force against poverty" (UNDP, 2014, cited in Segueda, 2015:17), especially in rural areas in modern African societies. The continued exclusion of women from participating in traditional leadership is therefore a misnomer. It does not only deny women of their civil and political rights. It also disempowers women and denies communities and the state, as a whole, of women's potential contribution to decision-making towards the better performance of the traditional authority and local government, as well as local economic growth and development. The backdrop of the exclusion, subordination and biases against women, as this article has shown, is primarily patriarchy, a by-product of colonialism, capitalism and imported religions - underlying which is the issue of unequal power relations with regard to gender; and the collective interest of men to dominate women.

Essentially, patriarchal tendencies, as illustrated in the traditional authority sector in this article, are reflective of human factor decay, i.e., negative human personality traits, such as discrimination, sexism, self-centredness, selfishness, greed, injustice and inequity. From the Human Factor Theory perspective, these negative characteristics are environmentally acquired, as are positive human personality traits such as love, respect, equity, justice, inclusivity and equality (See Adjibolosoo, 1995a; 1995b; Owusu-Ampomah, 2011), which were ostensibly significant factors accounting for the Valoyi Royal Family's unanimous decision to install Ms. Felia Shilubana as the next Hosi of the Valoyi tribe, prior to the legal confirmation. Therefore, attempts to promote gender equity and equality in traditional leadership in South Africa should not only focus on legal and administrative precepts, but also positive human factor development, particularly amongst members of royal families

and tribal communities, in building a civil society in which the values of mutual respect, healthy relationships and co-existence of men and women, affirm the spirit of "Ubuntu" – "I am because we are and since we are, I am" (Mbithi, 1991: 106).

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The authors declare that they have no conflict of interests.

References

Abuiyada, R. (2018) Traditional Development Theories have failed to Address the Needs of the majority of People at Grassroots Levels with Reference to GAD *International Journal of Business and Social Science* Vol. 9; No. 9, September 2018, doi:10.30845/ijbss. v9n9, p12, p.114-119

Achebe, N. (2018) Women and Authority in West African History, IN Achebe, Nwando, Samuel Adu-Gyamfi, Joe Alie, Hassoum Ceesay, Toby Green, Vincent Hiribarren, Ben Kye-Ampadu, History Textbook: West African Senior School Certificate Examination (2018), https://wasscehistorytextbook.com/; https://wasscehistorytextbook.com/11-women-and-authority-in-west-african-history/ Accessed: 14/02/2023

Adjibolosoo, S. (1995) The Human Factor in Developing Africa, Westport: Praeger

Bekker, J. C. & Boonzaaier, C.C. (2008). Succession of women to traditional leadership: is the judgment in Shilubana v Nwamitwa based on sound legal principles? https://repository.up.ac.za/bitstream/handle/2263/9982/Bekker_Succession%282008%29.pdf?sequence=1 Accessed: 16/6/2023)

Boonzaaier, E. and Sharp, S. (1988). South African keywords — the uses and abuses of political concepts. Claremont: David Phillip Publishers

Boserup, E. (2007). Women's Role in Economic Development, London: Routledge, First Edition, eBook, September 2013. New Introduction by Nazneen Kanji, Su Fei Tan, Camilla Toulmin https://doi.org/10.4324/9781315065892

Braidotti, R. et al. (1994). Women, the Environment and Sustainable Development: Towards a Theoretical Synthesis. London: Zed Books.

Charlton, S. (1984). Women in Third World Development. London: Westview Press

Chauke, M. T. (2015) The Role of Women in Traditional Leadership with Special Reference to the Valoyi Tribe, *Sud Tribes Tribals, 13(1): 34-39.*

Chengu, G. (2015) The Capitalist Origins of Oppression of African Women. http://www.counterpunch.org/2015/03/06/the-capitalist-origins-of-the-oppression-of-african-women/ Accessed: March 7, 2023.

Coetzee, D. (2001) South African education and ideology of patriarchy. South African Journal of Education, 21, 300-304.

CGE (Commission on Gender Equality) (1998). Annual Report of the Commission on Gender Equality. Pretoria: Government Printer, Pretoria, South Africa.

CGE (Commission for Gender Equality) (2017) Royalty and Women's Empowerment: Assessing Gender Mainstreaming through Houses of Traditional Leaders, (Commission for Gender Equality, Research Report)

…… (2018) Gender Rights Under Culture Rites: Assessing Women's Empowerment through Houses of Traditional Leaders in South Africa

…….. (2019a) Balancing the Scales: Reviewing developments in women's representation in Politics and Government between the 2014 and 2019 Elections, Commission for Gender Equality, Pretoria, South Africa

…….. (2019b) Elections and Gender Mainstreaming: Assessing Gender Issues and Women's Representation in South Africa's 2019 Elections

Facio, A. (2013) What is Patriarchy? http://www.learnwhr.org/wp- content/uploads/D-Facio-What-is-Patriarchy.pdf Accessed: March 12, 2023.

Hafez, M-A. P. V. (2001) Patriarchy as empire: A Theological Reflection, *Historiae Ecclesiasticae*, December 2011, 37 -, 259-270.

Koenane, M. L. J. (2017) The role and significance of traditional leadership in the governance of modern democratic South Africa, Africa Review · December 2017 DOI: 10.1080/09744053.2017.1399563

Khuzwayo, N., Chipungu, L. Magidimisha, H. and Lewis, M. (2019) Examining women's access to rural land in UMnini Trust traditional area of KwaZulu-Natal, South Africa, South Africa. *Town and Regional Planning,* no.75, pp. 31-43.

Lesko, B. S. (1999) The Great Goddesses of Egypt, University of Oklahoma Press: Norman

Muriaas, Ragnhild L., Vibeke Wang, Lindsay Benstead, Boniface Dulani, and Lise Rakner. "Why the Gender of Traditional Authorities Matters: Intersectionality and Women's Rights Advocacy in Malawi." *Comparative Political Studies* 52, no. 12 (October 2019): 1881–1924. https://doi.org/10.1177/0010414018774369

Mawere, J., Matshidze, P., Kugara, S. and Madzivhandila, T. (2021). The Role and Significance of Traditional Leadership in South African Local Governance. 10.4018/978-1-7998-7492-8.ch014. In: Handbook of Research on Protecting and Managing Global Indigenous Knowledge Systems (pp.249-273).

Mbiti, J. (1991). African religion and philosophies (2nd Ed.). New Hampshire,

USA: Heinemann.

Mensah, C. A., Antwi, K. B. and Dauda, S. (2014) Female Traditional Leaders (Queen Mothers) and Community Planning and Development in Ghana, *Environmental Management and Sustainable Development* ISSN 2164-7682 Vol. 3, No. 1

Mireku, O. (2010). Customary law and the promotion of gender equality: An appraisal of the Shilubana decision; *African Human Rights Law Journal*, 10(2): 515-523.

Mutangadura, G. (2007). The incidence of land tenure insecurity in Southern Africa: Policy Implications for Sustainable Development. Natural Resources Forum, 31(3), pp. 176-187. https://doi.org/10.1111/j.1477-8947.2007.00148.x

.Napikoski, L. (2021) "Patriarchal Society According to Feminism. *Thoughtco*, https://www.thoughtco.com/patriarchal-society-feminism-definition-3528978 Accessed: 15/3/2023

Nkasawe, M. (2008) Women traditional leaders: progress or not? Mail & Guardian, 24 June 2008; https://mg.co.za/article/2008-06-24-women-traditional-leaders-progress-or-not/ Accessed: 20/3/2023.

Ntlama, N. and Ndima, D. D. (2009) 'The significance of South Africa's Traditional Courts Bill to the challenge of promoting African traditional justice systems" *International Journal of African Renaissance Studies - Multi-, Inter- and Transdisciplinarity* 4(1):6-30

Owusu-Ampomah, K, (2011) KwaZulu-Natal Gender Profile; Research Report Commissioned by the Office of the Premier, KwaZulu-Natal Provincial Government, Pietermaritzburg, KwaZulu-Natal Province, South Africa. Author's Copy.

Owusu-Ampomah, K. (2011) The Quality of the Human Factor and its Implications for Network Dynamics and Small Business Growth and Development *Alternation* Special Edition 4 (2011) 3 – 29;

Owusu, I. B. (2018) The Gendered Politics of Land Distribution and Inheritance by Widowed Women in Kwazulu-Natal; A Dissertation Submitted in Fulfilment of The Academic Requirements for The Award of a Master of Arts in Gender Studies, School of Social Sciences, University of Kwa-Zulu Natal, South Africa

Phillps, L. (2019) Culture vs the Constitution: The suffering of Zulu widows. Published Online:18 Oct 2019 https://hdl.handle.net/10520/EJC-18abe237d8

Pearson, R. (2000) Rethinking Gender Matters in Development, in Allen, T. & Thomas, A. (eds.) *Poverty and Development into the 21st Century*. Oxford: Oxford University Press;

Popoola, A. & Magidimisha, H. (2019) Will rural areas disappear? Participatory governance and infrastructure provision in Oyo State, Nigeria. In: Tembo-Silungwe, C., Musonda, I. & Okoro, C. *Proceedings of the 6th International Conference of Development and Investment – Strategies for Africa*. DII-2019, 24-26 July, Livingstone, Zambia, pp.12-26.

Republic of South Africa (1996) The South African Constitution 1996, Chapter 12, 211(1)

Segueda, W. E. (2015) Imported Religions, Colonialism and the Situation of Women in Africa *Schriftenreihe Junges Afrikazentrum* 3 (2015) https://opus.bibliothek.uni-wuerzburg.de/opus4wuerzburg/frontdoor/deliver/index/docId/12240/file/JAZ03_Segueda.pdf Accessed: 31/3/2023

Tsako, V. (2021) Presentation: Promotion of women in Senior Management Positions https://www.ilgm.co.za/Portals/15/presentations/2017/Promotion_of_women_in_snr_management_positions_-_Vuyiwe_Tsako.pdf?ver=2021-06-01-133842-477

Umaru Baba, S. & Van Der Horst, D. 2018. Intrahousehold relations and environmental entitlements of land and livestock for women in rural Kano, Northern Nigeria. *Environments*, 5(2), article 26. https://doi.org/10.3390/environments5020026.

Waldron, I.R. (2018). Women On the Frontlines: Grassroots Movements Against Environmental Violence in Indigenous and Black Communities in Canada. Kalfou, 5(2), pp. 251-268.https://doi.org/10.15367/kf.v5i2.211.

Weideman, M. (2004). Land reform, equity and growth in South Africa: A comparative analysis. Unpublished PhD thesis. University of the Witwatersrand: Department of Political Studies.

World Bank (2001) World Development Report 2000/2001: Attacking Poverty Oxford: Oxford University Press;

UNDP (2014) Gender and Poverty Reduction, New York: UNDP http://www.undp.org/content/undp/en/home/ourwork/povertyreduction/focus_areas/focus_gender_and_poverty.html, Accessed 16/6/2023.

UNDP (Online) Gender equality and democratic governance Available at https://www.undp.org/eurasia/our-focus/gender-equality/gender-equality-and-democratic-governance Accessed: 20/03/2023