

POLITICS OF INCLUSION AND EXCLUSION IN GOVERNANCE OF NATURAL RESOURCES: THE CASE OF BUHERA COMMUNAL AREAS, ZIMBABWE

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ABSTRACT

Traditional leaders have been custodians of the land since the colonial regime where they were used through direct or indirect rule. After independence their authority was emasculated by modern institutions in a bid to uphold the thrust of democratization thereby leading to the wax and wane of traditional authority. The Rural District Councils (RDCs) Act of 1988 gave powers to the council over land and its resources. At the same time the traditional leaders Act of 1998 has since restored powers to the traditional leaders following their loss in the referendum. This has seen for the regularization of chieftaincy appointments by the President in which they also have powers within their jurisdiction. The Traditional Leaders Act Ch29:17 give supreme authority to the chief to allocate land. This in essence has resulted in a dual system of natural resource management. However, the dual system of governance is chaotic and muddled leading to a lot of controversy since there is a battle of supremacy between the RDCs and the traditional leaders. This has resulted in a blame game over environmental degradation in Buhera. The traditional leaders feel that accusations leveled against them over giving land on ecologically fragile and sensitive ecosystems is a bid to undermine and thwart their authority. Rather they have shouldered the blame on the council for clandestinely allocating land on sacred areas so that they will garner votes for re-election into office. However, the powers of the chiefs have remained rhetorical since they are challenged not only by the RDCs but also by the judicial system making them weak in environmental law enforcement. Hence there is an element of inclusion and exclusion since in most instances the decisions of traditional leaders have remained peripheral and do not count.

Keywords: Traditional leaders, Rural district councils, Supremacy, Environmental degradation, Governance

Introduction and background

The major thrust of the study is to examine politics surrounding natural resource management in Buhera communal areas following the restoration of traditional leaders' authority. The paper also seeks to examine the challenges encountered in co-management of the natural environment. It has been revealed that the Communal Lands Act of 1982 emasculated traditional leaders' powers and put in place the RDCs in charge of the environment. Mutizwa and Mangiza (1990), postulate that the coming of the post-colonial governments at independence further consolidated powers and institutions in resource management as local communities were 'cultured' into a system of only receiving instructions from the top. Local resource management institutions were further weakened as powers were shifted even further from traditional authorities to the state under the District Councils Act (1980) and Communal Areas Act (1982) in Zimbabwe. The enactment of the Communal Lands Act of 1982 shifted land allocation authority from traditional political leaders to District councils.

Mutizwa - Mangiza (1990) posit that, the other legislative instruments which contributed to changes in the institutional setting in Zimbabwe included the Prime Minister's directive on Decentralization and Rural District Council's Act (1988). The District Council's Act removed the power to allocate land from traditional chiefs and headmen to District Councils while the 1982 Prime Minister's Directive on decentralization resulted in the establishment of local institutions known as the Village Development Committees (VIDCOs) and Ward Development Committees (WADCOs). The latter formed a parallel institution to the traditional authority in place at village level, creating friction between democratically elected leaders and the traditional leaders at community level and further stripped chiefs and headmen of their land allocation powers.

According to Sithole (1997) and Mandondo (2000) since the inception of rural local government reform in 1980, communal leadership in Zimbabwe has been characterized by a profusion of overlapping and incongruent local organizational structures, each with its own boundaries and

drawing on different sources of legitimacy, which has created weak and disparate local institutions.

Nyambara (1997) echoes the sentiment that the Communal Lands Act vested control over land in the President and devolved land administration to rural district councils (RDCs) and district administrators making RDCs the rightful land authorities. By removing the application of customary law regarding access to and use of land from customary institutions (chieftaincy) to newly elected local government institutions (the rural district councils), the new government of Zimbabwe was effectively vesting the application of customary law in non-customary institutions.

The RDCs have further been empowered through the Rural District Council Act of 1988. Following the loss in the 1999 referendum to the opposition party MDC (Movement for Democratic Change) the powers of traditional leaders were restored through the Traditional Leaders Act of 1998. This co-option has rather been marred with a lot of controversy and used as a mere smokescreen to increase support for the ruling ZANU PF which was on the verge of collapse. Despite the co-option of the traditional leaders it is a fallacy that they have remained peripheral in management of natural resource management and only occupy a ceremonial position under the guise of the Traditional Leaders Act. Their power is rhetorical and a mere appendage of the Zanu pf to increase their grip in rural constituencies in which they were losing popularity, and restoration of traditional leaders was only a political gimmick to woo votes since the RDCs remain visible and the traditional leaders fall on the blind spot. Although chiefs and Headmen Act (1988) excluded traditional leaders in land administration, the inhabitants of communal areas still referred most land matters and requests to traditional leaders. Furthermore, the chiefs and headmen Act (1988), did not recognize the institution of village head, but the village heads remained particularly defiant to their non-recognition and to the imposition of the new structures, and they continued to be involved in allocation of land, encouraged by both chiefs and headmen who considered the position of village head to be very necessary in traditional local administration (Dore, 1995)

According to Kowero et al (2003), traditional chiefs played significant roles in keeping communities together. Their mandate included protecting the communities from negative outside influences, ensuring that productivity and fertility of the land was maintained, coordinating rainmaking ceremonies and guarding and maintaining territorial sacred places and shrines, thereby ensuring harmony between ancestral spirits and territorial cult centers'. Mukamuri (1995) opines that, at the local level, traditional chiefs are the encapsulation of all institutions formal and informal, in the management of natural resources.

Makumbe (2010) further notes that traditional leaders' are generally accepted as the custodians of customary law and practice and their support has always been sought after by successive regimes since Zimbabwe was colonized. Colonial government, for example made effective use of chiefs to mobilize the African people to participate in selected government programmes largely aimed at ensuring the people's compliance with colonial rules. Traditional leaders that were reluctant to co-operate with the colonial regimes were often penalized or dethroned and new leaders installed in their places.

Makumbe (2010) argues that traditionally, chiefs had the power and authority to allocate land to people in their areas. The Communal Land Act, however, changed this arrangement and transferred the land allocation responsibility to RDCs. RDCs are also land allocating authorities within their respective areas of jurisdiction. In terms of Communal Land Act, RDCs are the land authorities and are therefore responsible for allocation of land within their areas of responsibility. However, this allocation is carried out within the confines or provisions of traditions and customs of which it is commonly accepted and traditional leadership are the custodians.

According to Mukamuri (2000) the colonial legacy of Zimbabwe is still evident in the present dualistic land tenure situation. The communal areas are administered through a dual system which consists of modern and traditional administrative structures. The modern system is locally administered by RDCs through elected councilors. The traditional system is line-age based and headed by chiefs, headmen and kraal heads. In Mukarakate from the year 1982 onwards following the introduction of VIDCOs the period was characterized by confusions especially between VIDCOs and Traditional leaders. It was found that the local councilor did not have a list

of people in his ward. He explained the situation by alleging that kraal heads were withholding information regarding immigrants and other newly established households. This was linked to accusations raised against some kraal heads of corruption and selling land to immigrants.

Mukamuri (2000) further argues that In Chibwe VIDCOs play a marginal role. It also emerged that traditional leaders are increasingly becoming weak and losing their legitimacy among the people. According to Makumbe (1996) the demise of VIDCOs and WADCOs came about because they were imposed on the people by a state which sought to use such structures for its political and hegemonic ambitions

According to Chimhowu et al (2010) at the district level, environmental management is the responsibility of the district councils, through their District Development Committees comprised of elected leaders and technical officers from line ministries. The district councils are empowered to make by-laws and developing new ones in conjunction with local communities could provide a useful tool for enhancing environmental management in the future. At the local level the village assembly or its headmen are charged with the enforcement of all environmental planning and conservation by laws on behalf of the chief

According to Mamimine and Mandivengerei (2001) governments in sub Saharan Africa including Zimbabwe in their attempt to institute democracy at the local level, began a systematic sidelining of traditional leadership. They have literally done away with most local traditional structures of governance that had hitherto been the pillars of colonial communal land administration regarding them as stumbling blocks. Traditional leadership faces a crisis of legitimacy in post independence political dispensations. Much of legislation passed since independence in Zimbabwe disempowered traditional leadership.

The Communal Lands Development Plan, 1986 upholds the notion that rather than incorporate and co-opt traditional institutions into state institutions the government sought to marginalize them by denying them, among other things, the power to allocate land. Mandondo (2000) concurs that in practice chiefs and headmen always inserted themselves into the process by clandestinely allocating land on the basis of customary, territorial and other claims to the land.

Mandondo (2000) argues that faced with a serious political challenge from an emergent popular opposition movement in the late 1990s which culminated in the formation of the MDC in 1999, ZANU felt they faced a real threat in that the growing opposition would garner support from the communal lands, the traditional support base of the ruling party. The state opportunistically moved quickly to incorporate the traditional leaders, as an important, but hitherto alienated, political constituency.

The Government Commission Report (1994) state that the report of the land tenure commission reported that traditional leaders used to carry more meaningful authority over the use of natural resources but it has now been eroded. Chiefs, headmen and village heads in many areas had illegally reacquired some of their defunct authority over land and were allocating lands in return for fees thereby creating tension and conflict with the VIDCOs.

According to Mandondo (2000) roles of chiefs, headmen and village heads under Traditional Leaders Act (1998) were an exact re-enactment of the colonial roles of chiefs and allied traditional leaders .Under the Traditional Leaders Act 1998, chiefs became Presidential appointees who were tasked to supervise headmen, promote and uphold cultural values, oversee the collection by village heads of taxes and levies for the rural district council, and ensure land and natural resources were used in accordance with national legislation especially legislation prohibiting over cultivation, overgrazing and deforestation.

The political courtship of chiefs increased in 2000 following emergence of a very powerful opposition party, MDC in 1999 which posed a serious political challenge to ZANU- PF Government in rural constituencies. In this political atmosphere, chiefs' powers were further increased by Traditional Leaders Act and they became very powerful actors in Zimbabwe's development, usurping that role from locally elected councilors who were now considered to be weak.

Traditional Leaders Act (Ch 29:17)

The act institutionalizes the governance of communal land and resettlement areas. According to section 3 the Act provides for the appointment of chiefs to preside over communities in

communal lands and resettlement areas. Chiefs are appointed by the President of the Republic of Zimbabwe. Section 5 of the Act stipulates the functions of chiefs and state functions relating to the environment, land and natural resources. They also ensure that the land and its natural resources are used and exploited in terms of the law and in particular controlling over-cultivation, overgrazing, indiscriminate destruction of flora and fauna and generally preventing the degradation, abuse or misuse of land and natural resources in his area. Traditional leaders also adjudicate in and resolve disputes relating to land in his area. They also notify the rural council of the outbreak of any epidemic, flood or other natural or unnatural disasters affecting the inhabitants, livestock, crops, land, flora or fauna in his area. Considering the above the protection of the environment and conservation of natural resources resides in chiefs. The Act also gives chiefs a role to play in the resolution of disputes including resolution of disputes relating to environment and natural resources

Statement of the problem

The Traditional leaders Act Ch 29:17, restored authority to traditional leaders so that they can take charge of the areas within their jurisdiction. However, it has remained a fallacy since the RDCs through the Rural District Council Act of (1988) also hold that same authority. It is rhetorical in that whilst traditional leaders have been incorporated their authority has remained minimal and they have since been accused of holding the environment to ransom due to continued environmental degradation. Moreover, the Traditional leaders feel that the RDCs are responsible for the cataclysm being experienced in Buhera due to rebuffing of traditional aspects of sacredness. This has made them lack allegiance and legitimacy from the local communities who have hold long standing traditions of conservation and mutual trust with the traditional leaders leading to chaos and confusion amongst the local communities. There is a battle of supremacy as the two institutions run parallel to each other. Moreover, their line of authority is not clear and shrouded in a lot of political tensions.

Conceptual framework

Norman Long's idea on interface analysis was used as the basis for understanding this study. Long (2001) regards 'social actors' as entities (individuals or groups), that can be regarded as

having agency. In this instance the social actors are the RDCs and the Traditional leaders. As such they would possess the knowledgeability and capability to assess problematic situations and organize ‘appropriate’ responses. According to Schutz and Luckmann (1973) Life worlds constituted of various forms of social knowledge, intentions and evaluative models, and types of discourse and social action, through which actors attempt to order their worlds. Such life worlds are products of past experiences and personal and shared understandings and are reshaped continuously by new encounters with people and things. Hence the traditional leaders have a lived in experience regarding the management of natural resources through consecration of sacred areas. At the same time the RDCs which are state actors are guided by the wills and whims of the state. Hence there is need to reconcile the two life worlds. Long (2001) opines that social interface is a critical point of intersection between life worlds.

According to Long (1999) Interfaces typically occur at points where different and often conflicting life worlds or social fields intersect, or more concretely, in social situations or arenas in which interactions become oriented around problems of bridging, accommodating, segregating or contesting social, evaluative and cognitive standpoints. Henceforth there is need to reconcile the two life worlds to work as nested enterprises.

Research Methodology

The research is grounded in purely qualitative analysis to capture the views and experiences of the traditional leaders and Rural District Councils. This allows for generation of rich data cases. Unstructured interviews were conducted on the part of traditional leaders and Rural District Councils to capture their sentiments regarding use and access to natural resources. Unstructured interviews were also administered on the part of the local community. A focus group discussion was also conducted comprising of RDCs and traditional leaders to corroborate data gathered in unstructured interviews. Observations and transect walks were also used in order to observe signs of environmental degradation. Purposive sampling was used to solicit data from the relevant authorities thereby producing rich data cases.

Presentation and Discussion of Findings

A thematic approach was used to present and analyze data gathered during the course of the research. Evidence gathered from RDCs revealed that councilors are accusing traditional leaders of allocating arable land on areas previously set aside as grazing areas (central land). In addition to that councilors are accusing traditional leaders of allocating arable land on sensitive ecosystem that is areas within 30m of banks of the river and wetlands. These issues were considered central to continued land degradation in form of soil erosion. From the observations carried out, it emerged that most rivers in Buhera are silted with Save river being the worst affected. According to the Traditional leaders Act all the land belongs to the chief who is supreme authority in terms of the Act. This has actually led to a crisis in natural resource management since the RDCs are questioning the powers of traditional leaders. Due to the geographical positioning of the area agriculture does not thrive and the local communities need to derive a livelihood portfolio. The situation is further exacerbated by increasing pressure on land leaving the poor peasants with no option except to increase farming activities on arable land. The dual system of governance has rather fueled a great deal of controversy thereby intensifying environmental degradation, since the local communities have exploited this avenue.

The changing context of positions previously held by traditional leaders has culminated a lot of conflict over power differentials. For Mukamuri and Mavedzenge (2000) this lack of clarity on the roles and functions of various institutions at the local administrative levels, particularly over issues of land, has precipitated a crisis of communal leadership in communal areas of Zimbabwe, whereby, on one hand, elected rural institutions (VIDCOs, WADCOs etc) had little real legitimacy according to traditional grassroots perspectives, while traditional leaders are not always acknowledged or respected by the formal state's modernization initiatives.

Following the reenactment of the Traditional Leaders Act authority over land allocation has also been conferred to traditional leaders themselves who also have the prerogative to allocate land.

For Mukamuri (1995) the representation of the VIDCO has been based on a democratic voting system. However, the structure has suffered from a prolonged legitimacy crisis, primarily because of confusion between VIDCOs and political party structures. The government has now

restored authority to the chiefs through enactment of the chiefs and Traditional Leaders Act (1998). This has actually facilitated an atmosphere of tension in a bid to outmatch the other party.

Traditional leaders also reacted in response to these accusations. The traditional leaders felt that they are being undermined and sidelined. Through the Rural District Council Act all resources and land belong to the council. The council is also a supreme planning authority. The battle appears to be a battle of supremacy.

According to Makumbe (2010) whilst local authority is the land authority, land allocation is carried out hand in hand with traditional leadership whose role is acknowledged and appreciated. He further asserts that as custodians of communal lands, chiefs and headmen do allocate land to their people for residential and agricultural purposes, except land that is located at business centers' or land to be used for commercial farming.

This situation has been different in Buhera where there has been a battle of supremacy due to the present dual system which has tended to be chaotic in nature. Rather the traditional leaders are accusing council of allocating land to prospective businesses without their knowledge. For instance Chief Nyashanu was complaining that council allocated a stand for a Beer hall close to his homestead. He was never consulted on the issue. Some areas were set aside as sacred areas. Traditionally setting aside sacred areas was a traditional conservation method. Nemarundwe (2000) contends that the prevailing environment in Zimbabwe is so chaotic that in many communal lands many people violate land use by-laws by converting land originally demarcated as pasture into arable land with the blessing of modern institutions of governance.

Musvoto (1994) opines that Rural District Councils have the authority to pass district-specific by-laws, including those which govern the protection and management of common property natural resources such as forests and wildlife. Although the Communal Lands Act gave legal power over land allocation to RDCs, in actual practice the allocation of land is still often done by traditional leaders. Authority to allocate land is ambiguous and conflicts often arise.

It remains a chimera on who is to blame over continued environmental degradation and deforestation. The powers of chiefs in prosecution were also questioned. In most cases the chiefs decisions are challenged through modern judicial system and making them weak in environmental law enforcement. The Principles of natural justice enshrined in the constitution of Zimbabwe makes it a right for everyone to have a fair and just trial. This could be the reason why chiefs are being challenged. Because of the above their powers solely remain on paper. Moreover they are still guided by the statutory instruments in place which tend to be state sanctioned. The powers of the chiefs are simply dressed up in the paraphernalia of participatory development and in essence remain rhetoric.

It has also emerged that the chiefs' position is hereditary and councilors are a product of democratic election. The chiefs are accusing councilors for allocating natural resources for votes so that they will gain a political mileage. Regardless of fragility of the land it is being allocated to gain favor that the RDCs would be reelected into power. The councilors according to the decentralization of 1982 are there to spearhead development. It is a participatory development criterion. This participatory planning is being abused for votes. This view is further consolidated by Nyambara (1997) who substantiate that the inception of VIDCOs has rather escalated problems of land degradation, riverbank cultivation, deforestation and siltation.

It is a paradox that the Council enforces laws through their police and also ZRP. They are hindered by resources to enforce natural resource use by laws through the Rural District Council Act. The result is continued land degradation. At the same time the traditional Leaders have the prerogative to do so according to the Traditional Leaders Act. The two institutions run parallel programmes that are always conflicting. Hence it is battle for power that is manifest. It is ironic that the traditional leaders are included and at the same time excluded since they are guided by the state statutory instruments which in essence make them accountable to the government that they serve. Moreover, they are elected by the president himself which makes their position ceremonial. At the end of the day their power is at par to those of the RDCs who also tend to be accountable to the government that they serve. Thus it would be prudent to assert that the restoration of traditional leaders was a political gimmick to woo votes in areas that tended to be political strongholds of the ruling ZANU PF party. Sharma's (2003) contention is a replica of the

situation in Zimbabwe at present, where the ruling party has handled the traditional institution in a delicate manner to ensure that they are not driven into opposition. The traditional institution has been retained, but possesses very limited powers hence making it a mere smokescreen to increase the ruling party's political mileage. The retention of traditional chiefs is major milestone in garnering support from the local communities who have always hold mutual trust in the traditional institution. The dismantling of these structures could actually make the ruling part lose support from the local community. It therefore remains clear that considerable amounts of traditional authorities' powers have been whittled away from them and given to local authorities. The traditional authorities do not have power in essence but rather it's rhetorical and meant to increase the grip of the ruling part instead.

Matyszak (2010) opines that in February 2000 ZANU PF's first ever loss at the polls in a nationwide referendum on a new constitution precipitated a political crisis, which has continued to the present. ZANU PF began to exploit the possibility of co opting traditional leaders as allies in the campaign for rural control and adopted a carrot and stick approach. Chiefs were encouraged to exercise extensive powers over rural communities that had been restored to them by way of the Traditional leaders Act. They were threatened with removal from their positions or discontinuance of state allowances if those under their jurisdiction voted against ZANU PF. This has however, been valorized by RDCs in a quest to oust the power and credibility of the traditional leaders themselves. It however, remains a mystery over who is to blame for environmental deterioration and there is a lot of blame shifting over the two authorities.

The Complexity and Multiplicity of Interface

In Buhera interface has been typically muddled in a lot of controversy due to the different social actors with incompatible life worlds altogether. Social interface situations are more complex and multiple in nature containing with them many different interests, relationships and modes of rationality and power. This has been depicted in Buhera where the traditional leaders and the RDCs seem to have divergent interests. Continued interaction encourages the development of boundaries and shared expectations that shape the interaction of the participants so that overtime the interface becomes an organized entity of interlocking relationships and intentionalities.

However, this situation has tended to be an illusion in Buhera since the inception of both social actors that is the traditional leaders and the modern state institutions (RDCs). Rather there is a battlefield pitching up in Buhera. It has emerged to be a tense atmosphere and there is a legitimacy crisis due to power differentials.

Long (1999) argues that although interface interactions presuppose some degree of common interests, they also have a propensity to generate conflict due to contradictory interests and objectives or to unequal power relations. This has been manifest in Buhera where traditional leaders feel that their needs have been trivialized and rather remained peripheral. Like knowledge, power is not simply possessed, accumulated and unproblematically exercised. Power implies much more than how hierarchies and hegemonic control demarcate social positions and opportunities and restrict access to resources. It is the outcome of complex struggles and negotiations over authority, status, reputation and resources, and necessitates the enrolment of networks of actors and constituencies. There is continued struggle with the traditional leaders shouldering the blame on the RDCs and on the other hand the RDCs blaming traditional leaders over allocating land clandestinely on ecologically fragile ecosystems. Maphala (1994) counterpoises this assertion by pointing out that traditional leaders have no legal means to compel modern leaders to respect traditional land use rules. The chiefs have no legal power to create and enforce rules on natural resource management in communal lands. At the same time the traditional leaders feel that they have been challenged and the RDCs have invaded into their territory. Certainly there is a battlefield pitching up in Buhera. Power of traditional leaders in reality has been usurped by RDCs thereby eroding traditional knowledge associated with the management of natural resources as traditional leaders have been forced to revert from their orthodox means of conservation due to modernization. The juxtaposition of the two systems has culminated in an administrative conflict between customary institutions and elected local government institutions. In Buhera it has emerged that the dual system of governance do not have clearly defined mandates and communication processes and tend to rely on different sources of legitimation that is the state for VIDCOs and WADCOs and tradition for customary institutions. This has made the traditional leaders weak even in natural resource management since their authority is being questioned by the RDCs.

Power struggles over meanings in governance of natural resources

Power is the outcome of complex struggles and negotiations over authority, status, reputation and resources and necessitates the enrolment of networks of actors and constituencies (Latour, 1994). The situation has been manifest in most parts of Zimbabwe and Buhera in particular. The powers of traditional leaders have declined over time as institutions such as RDCs have taken over their responsibilities after independence thereby whittling away the powers of the former. The enactment of the Communal Lands Act of 1982, and repealing of the Tribal Trust Lands Act of 1979, shifted land allocation authority from traditional political leaders to District Councils.. Due to continued struggle over authority and resource allocation the dual system of administration has been put in place. The conservation of natural resources has been an arena of struggle and contestation with each of the two parties (i.e. traditional leaders and the council) trying to outmatch each other in quest for supreme authority. Scott (1985) further points out that, power inevitably generates resistance, accommodation and strategic compliance as regular components of the politics of everyday life. This situation in Buhera has been politicized with each part trying to increase and strengthen its political mileage. Politics has become a mode of everyday life with the dual system of governance characterized by political hurdles. The relationship is conflictual and in most instances intermittent due to lack of accommodation on both parties leading to incessant conflicts. To buttress this notion authority to allocate land remains ambiguous and in actual practice traditional leaders have the powers over land allocation

Conclusion

From the ongoing study data gathered through unstructured interviews revealed that the situation in Buhera over governance of natural resources is chaotic. It emerged that the social actors that is the RDCs and Traditional leaders have different life worlds which are incompatible. This has generated a crisis of legitimacy with the RDCs shouldering the blame on traditional authorities with powers vested on them by RDC Act of 1988. At the same time traditional leaders also accuse the council for holding them at ransom yet they have their own agenda of buying in votes so that they would be re-elected into office. Certainly there is a battlefield pitching up and it seems to be a battle of supremacy due to the powers vested in the two authorities (RDCs and

Traditional Leaders) by RDCs Act and Traditional leaders Act respectively. The predicament is that though the duties are clearly stipulated in the two acts there are power dynamics involved in an attempt to oust and question the legitimacy of each other. Traditional leaders are being accused by the RDCs on one hand for the degradation of the environment by clandestinely allocating land on ecologically sensitive and fragile land. On the other hand the traditional leaders feel that their authority is being challenged and undermined under the guise of democratization and blame the RDCs instead for allocating land on sacred sites. The two systems have tended to run parallel to each other making it an arena of struggle and contestation.

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