



**Reinventing African Chieftaincy
in the Age of AIDS, Gender,
Governance, and Development**

Edited by Donald I. Ray, Tim Quinlan,
Keshav Sharma, and Tacita A.O. Clarke

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19 The Secular Dynamics of Traditional Leadership in KwaZulu-Natal, South Africa: The Decade of Active Political Transformation after Apartheid¹

Mpilo Pearl Sithole

INTRODUCTION

The process of economic and political transformation from colonial phase to post-colonial phase is infested with social misfit between two or more systems. The dynamics of urban-rural political imbalances and the present condition whereby traditional leadership is a structural appendix in modern politics are examples of this misfit. Such situations result from the capitalist upperhand in the economic situation and the structural displacement of indigenous institutions by institutions imposed or formed during colonial and liberation struggles. For a decade after apartheid, traditional leadership in South Africa had existed in a spurious political ontology in which the constitution merely recognized its existence, while policy and administrative practice reveals its indispensability in administration and political responsibility in many ways (see Ntsebeza 2001). However, with legislation developments since 2003 this is changing. The Traditional Leadership Governance Framework Act (TLGFA) of 2003

and the Communal Land Rights Act (CLaRA) of 2004 have emerged to give scope for some creativity on the issue of rural governance in KwaZulu-Natal and other parts of South Africa with traditional leadership and communal land. There is however a big dispute over this “scope for creativity” as others feel that it should not have been designed. The dispute must be contextualized within the main schools of thought on traditional leadership in South Africa. On the one hand, there is a school of thought that sees it as something that contradicts democracy as enshrined in the South African constitution. On the other hand, there is a school of thought that sees it as an indigenous form of governance that must find ways to blend and co-exist with the current democracy applicable in a wider South African boundary.

This paper examines the major challenges of the last decade on traditional leadership in South Africa through focusing in the debates between traditional leaders in government on the issues of demarcation of municipal boundaries which took place in 1999. It argues that traditional leadership as a form of government has been undergoing a precarious stage in KwaZulu-Natal, a stage that is neither a fault of state nor that of traditional leaders, but in which both systems are seeking to prevail. The basic principles upon which traditional leadership and the state are founded contradict one another so much that there is risk of an insinuation that, if the former prevails, the principles of the latter are in jeopardy. But history (of colonial conquest, indigenous customs, liberation struggle, formulation of bigger territorial boundaries) supports both institutions, while present circumstances (demographic mix and numbers, globalization, industrial economy) are more in favour of the principles of a democratic state. This paper makes an argument that, because of the intrinsic relationship between current diplomatic and economic system, on the one hand, and state-based democracy, on the other, the present form of elected government at various levels will prevail as a main political system in KwaZulu-Natal. However, because of history and the surviving social functions of the system of traditional leadership, this institution is likely to pose a serious challenge to the conscience of democratic government for many years to come.²

Unless the state deals convincingly with propounding its legitimacy as a power and authority over land (and people) that was historically taken from traditional leaders, the liminal transition from pre-colonial

indigenous systems to post-colonial democratic polities will remain infested with grudges of colonialism. Currently the alternative is happening: the institution of traditional leadership is in many ways asked to adapt and prove its worth in the current situation. If incumbents of this institution were to embark on a co-ordinated effort in fulfilling this challenge, especially in formulating an ideological basis for continued existence of traditional leadership, such an initiative would perhaps ensure some longevity for traditional leadership. However, the modern-day predominance of governance protocols suggests that the continued existence of traditional leadership also depends on it being able to communicate in terms that suit the government protocols and procedures. This might be the recognition behind Patekile Holomisa's observation that:

One of the ironies of post-colonial Africa is the ease with which its new rulers find comfort within the governance systems of their former oppressors, while they all invariably seem not to know what to do with the indigenous systems that have somehow managed to survive the colonial onslaught. There is usually no debate about whether or not the inherited white man's courts, his Parliament, his executive arm of government or his economic systems should be retained or discarded. The debate is about which Africans must occupy the newly vacated seats of power – political, economic, social and even cultural. (*Mail and Guardian*, 11–17 Feb. 2000, 29)

A SOCIO-HISTORICAL BACKGROUND

This paper critically analyzes the dynamics of extending democratic local development intervention in South Africa at the beginning of the twenty-first century and locates the controversies of this process in the historical clashes between the ideals of addressing historical dispossession while at the same time adopting democracy in governance of the rural part of KwaZulu-Natal. Towards this end, an appraisal of the historical roots of traditional leadership is engaged in, followed by a discussion of concerns that were raised by traditional leaders around the redemarcation of

local government boundaries in 1999 to 2000. The redemarcation of local government boundaries was a process that the government engaged in order to establish well-planned local government structures and achieve a facilitation of development in a way that balances human and economic capital with local development demand and size of “cliente.” The paper does not impose a separation between “traditional leadership” and “democracy”; it merely portrays a historical legacy in which authority is a matter of ascription in one case and a matter of referendum in the other case. The paper argues that the situation contains a confrontation between an out-phased moralistic socialistic approach in which ideological factors of seniority, age and gender are important; and the rationalizing Western democratic approach in which individual human rights and equality are enshrined. Depending on whether they are put on a political administrative scale or a human factor fulfillment scale both these approaches to governance could be placed differently with regards to their relevance to the twenty-first-century rural population of KwaZulu-Natal.

Traditional leadership in historical perspective

Historically, traditional leadership in Southern Africa was an institution based on kinship. It assumed a relationship of kin relatedness (blood, fictive, or distant) between the leader and the people under his authority (Sithole 2000). The significance of kinship in traditional leadership can be discerned when looking at the group fissions that took place during *Mfecane* wars in the early part of the nineteenth century (Bryant 1929; Wright and Mason 1983; Argyle 1978). This period is characterized by a pattern in which some groups broke away from others – in the form of a new leader (and his followers), who was often a brother or son of the ruler of the main group. A leader’s relatives formed an important constituency of his people and his royal constituency. Leaders were also reputed to expand their following or “tribes” through large polygamous households, which linked the leader to other social polities or households within their own “tribes” through affines (Kuper 1993). There was always scope for further links through their children. *Ukukhbonza* (begging for patronage)³ was also common during this period. It was not only done by smaller nuclear and extended household units, but it was also done by clans and small “tribes” with their own rulers. The *Mfecane* period was also characterized

by conquest of some “tribes” by others. However, history seems to suggest that, even at the hands of conquerors, “tribes” or political groups of this time did not lose their identity or their rulers. They were simply subjected under the authority of the conquering “tribe.” The use of such terms as “clans” and “tribes” has been rightly criticized; but for this period, due to lack of better words for polities, it seems to capture a description of polities that mixed political authority with relatedness or kinship.

It seems that traditional leadership was first and foremost based on the relationship between a leader and his people. This, as I argue elsewhere (Sithole 2000), is supported by the system of kinship particularly amongst the Nguni people. Identity among the people of Nguni origin was (and still is) traced through men who were seen as the heads of their households. Identity is carried from father to son and inheritance goes down through primogeniture. At the death of his father, the eldest son adopts, not just his father’s inheritance, but also his responsibilities and obligations to his subjects. Identity is now ascribed through the father’s surnames, which were not initially fixed at household level and were not ethnicized or “tribalized” at polity level. “Tribes” such as Zulu, Zwide, Mchunu, Mntungwa, and others derived their names from the names of their rulers, and during fissions, respective followers adopted names of their new founders (Bryant 1929). It was only later that reference to people of several groupings and their language was made to be Zulu, and this was a characteristic of both the *Mfecane* developments and colonial categorizations.

No particular period can be taken as the basis of standardization of elements that define traditional leadership through time and space. However, I would like to highlight here that history suggests that traditional leadership was *first about the relationship of the leader to his people and then about boundaries*.⁴ This is not meant in terms of one stage after another so much as it is meant as an indication of the fundamental source of “traditionalism” in traditional leadership. The nineteenth century was characterized by a lot of instability in terms of boundaries, and, although land was crucial to people’s livelihoods, its use and tenure was certainly different for indigenous polities from what it transpired to be during the colonial period and the present. The Nguni had had a political system in which suitable locality of polities was a matter of both the productive geographic space and acceptable or tolerable social relations surrounding the polity. A

regional range of polity existence had been the extent of definition of land entitlements. However, all this is highly controversial, given views such as that of Holomisa, which is discussed below. The fixation of boundaries for specific groups came with colonial interaction, and it was something that happened with a high degree of colonial exploitation (Laband and Thompson 1989). Gradually both boundaries and identity were becoming fixated during the nineteenth century. This also marked the beginning of the end of the Nguni socialistic approach to politics, in which materials (land, in particular) were a welfare consideration in social continuity. It was the beginning of a “factorizing” (individuating, “unitizing”) Western approach to governance, albeit fraught with intense exploitation and brutality for another century. The deliberate and cunning acts of colonial administration, particularly through Theophilus Shepstone, Secretary for Native Affairs of the mid-nineteenth century, are well documented by John Lambert (1995). Since this was an important period of change for indigenous politics as well, it is difficult to see what would have happened if the local transformation was not arrested by colonialism.

The demarcation debate in the light of history

Traditional leadership has survived a trying period of colonial abuse in which it was used as part of the system of indirect rule devised by the colonial powers. The boundaries of Zululand and Natal were colonially constituted and colonial powers of different origin kept shifting the boundaries according to the shifting of their own stakes in the conquest of the land from indigenous people (see the collection in Duminy and Guest 1989). “Chiefs” were used as the hands of the government in the exploitation of people. Hence today in KwaZulu-Natal they do not like the use of the term “chief,” preferring the Zulu term *inkosi* (plural: *amakhosi*) instead. The socio-political and economic processes that took place earlier in the twentieth century enforced the association of “traditional” and government-appointed “chiefs” with boundaries. Therefore, while the processes of apartheid-engineered relocation and labour migrancy allowed for an affinal distance between the ruler and the people, the association of governance with the boundaries grew.

Moreover, as colonial government officials imposed themselves as the superior authorities over traditional leaders and their subjects (see

the Natal Code of Native Law as published in *African Studies* of 1943), traditional leaders lost control of the military, economic, ceremonial, and political affairs of their people. This fact is a source of bitterness for some traditional leaders who still see themselves as the true governors in their communities and who argue that politicians are servants of the communities only mandated to perform specific tasks, and thus it is they who are inferior in political positioning. The basis of this assertion is not usually elucidated, but an almost sacred element of traditional leadership is discerned in it to which is added an association of property (most importantly land) to the communality of the unique polities that chiefdoms are. This is embedded in the following argument by Holomisa regarding the debatable interaction of local government, traditional leadership, and the people:

An erroneous point of departure [on the part of government] is the notion that if government resources and services are taken away from traditional leaders and are placed at the disposal of politicians then the people will abandon the former in favour of the latter. Besides anything else it is immoral for people to be made to choose between traditional leaders and service delivery – they deserve and are entitled to both.

Local government, like any other level of government, does not own land. In the urban areas land is owned either by the banks, through mortgage bonds, or by holders of the title deeds who have managed to pay off their bonds. In the rural areas tribal or communal land is owned by the tribe as a collective. Despite the fact that under apartheid laws, the state is the legal owner of tribal land, factually and morally the tribes own the land and, unless one is spoiling for a fight, no one can deal with it as he pleases.

Under *African tribal law* the custody of the land is entrusted in the traditional authority, that is, *the head of the tribe* and his counsellors. As trustee of the land the traditional authority is required to act at all times in the interests and according to the wishes of the owners of the land, the people. (*Mail and Guardian*, 11–17 Feb., 2000: 29; emphasis added).

This position may be clashing with my earlier contention based on my reading of history that kinship affinity, rather than fixed land, is the main basis for traditional authority/leadership, especially at the level of an *inkosi*. The clash is not necessarily evident though. Other than his reference to some “African tribal law,” it is not clear what Holomisa takes to be the primary basis of traditional authority. His reference to “the head of the tribe” is not accompanied by some concrete indispensability between the incumbent and the position. Hence he may only be assuming the obvious nature of kinship affinity between the people and the leader, which unfortunately is no longer very apparent in modern life. This traditional affinity has been gradually extinguished by the very fixation of boundaries on which people move and integrate regardless of their relationship to the leader. Traditionalism, however, defined as coupled with the right to leadership, is thus seriously called into question. On the other hand, there is a question whether a distinction between land ownership and governance must be maintained (Ntsebeza 2001, 320), in which case the owners of the land may choose the type of governance they want. The legal status of what Holomisa refers to as “the owners of the land, the people” needs some scrutiny via a policy and legislation analysis and an examination of the role of the Ingonyama Trust Board and *iSilo* (the king) in KwaZulu-Natal.

Holomisa speaks of the ownership of land by the people as if there was a definite legalizing moment in history for this ownership. Yet it seems to me that, while the historical legalities of state ownership of land could be seriously questioned, so could this be the case with the traditional authorities’ hold on land. The issue of the historical era of concretization of legitimacy over land (by both the state and traditional leadership) is a serious one. It is not only issues around what piece of land rightly belong to whom, but it is also issues around the type of ownership (e.g., the communal land ownership) that need elucidation. The issue of conflation of communal land with state land in various historical epochs (Ntsebeza 2001, 320) is also one that needs clarity. Questions were also raised about the scattered nature of some traditional boundaries in relation to the demarcation debate that was raging in 2000:

The scattered traditional land of Qadi consisting of six separate pieces of land, and of Embo/Nkasa and Isimahla in

KwaZulu-Natal are at the heart of the dispute over the demarcation process – a genuine demarcation issue that the affected traditional authorities are taking up with the Municipal Demarcations Boards.

However the scattered traditional land is the direct product of the drawing of provincial boundaries following the Union of South Africa and the process of land dispossession ushered by the Land Act of 1913. (*Mail and Guardian*, 28 Jan.–1 Feb. 2000)

This, coupled with the fact that through recent history “the various service workers [were] generally being accountable only to their regional directors within Kwazulu departments” (McIntosh 1990), complicates the issue of boundaries, service delivery, and political authority even further.

Amakhosi and other sympathetic politicians have complained through the media about the manner in which the state has patronized traditional leadership through legislation and policy and through the inappropriate and unfriendly means of communication and consultation adopted by the Municipal Demarcations Board before the 2000 local election. The chairperson of the board, Dr. Mike Sutcliffe, was accused of taking a “white” approach in the way he has done things. He defended himself by alerting people to the mix of people in the board itself, the board which, he reminded people, was not about him (*Daily News*, 7 Feb. 2000: 3). However, *amakhosi* and sympathizers continued to complain about not being consulted in a traditionally appropriate manner that could on some occasions possibly involve “official” gestures such as slaughtering an animal. “Sutcliffe’s consultation could have only included calling for submissions and setting up a cut-off date, and the *amakhosi* would not consider that a consultation” (*Daily News*, 7 Feb. 2000: 3). All these concerns were raised in the context of one pervading fear that the project of the demarcation of boundaries was all about trying to alienate traditional leadership and make it redundant as a political institution. Given the history of mutual tensions between the state and traditional leadership (colonially and post-colonially), the manner in which service delivery has been conducted (not necessarily to include traditional leadership) and the manner in which the traditional leaders have relinquished control of the economic affairs in the communities, it is not surprising that they would feel suspicious of

any ordering process that is led by the government. For most duties and services (judicial, economic, even ritual) that fall within the ambit of the traditional authority, there are alternative ways to them. This is not to say that people themselves do not opt to use services of their traditional leaders or feel it necessary to honour their patronage. On the part of the government, it is not clear to what extent allegations of attempts to sideline traditional leadership could be substantiated. The argument of the government and of the Municipal Demarcations Board before the 2000 local government election was that “Demarcation is about the determination of the jurisdiction of municipalities, not about redrawing of political borders over traditional land” (*Mail and Guardian*, 28 Jan.–3 Feb. 2000).

While most *amakhosi* recognize the confusion caused by the colonial process regarding boundaries and political authority, not all of them necessarily adopt a negative attitude towards the current initiatives of government. One of the *amakhosi*, for example, recognizes that:

... we inherited a situation where boundaries were drawn arbitrarily by the Whites during the Union government and not by the democratically elected government. They started making laws and removing people from one place to another and dividing them. The government continued even during the 1950s with its Group Areas Act making new boundaries so that they can be able to control us. So that’s why [me and my people], after careful analysis and discussion about the local government after 1994, decided that there is no problem now in being part of democratic structures because we are the ones who voted for this government. We had to offer support because the land was being planned afresh because previously it’s our enemies who had caused the problems in the rural areas. Apart from the issue of enemies we also felt that we should be part of the democratic structures so that we are clear how things are done and where we are going (*Inkosi A* interview: August 2000).

This *inkosi* believes that during the negotiations towards democracy in South Africa a strong commitment to a Western democratic type of government was embraced; and he also believes that a mix of this type of governance with African democracy is feasible. His way of dealing with the unjust history, which he recognizes as much as his other colleagues do, is accepting the current state-based system of governance in the context of democratic politics and dealing with the changed global context. Hence, he continues to argue that:

We need to be part of the global community so that we are not left behind. The boundaries of the past [undemocratic governments] destroyed our way of life and the philosophies which we held dearly. Some people only concentrate on the negative influence of the Western culture on our culture, but we should not forget that culture is dynamic and will always be affected by changes. Things have to change for life to go on. The world is changing, when we were born it was not like this and when we die, it will be a different world altogether. So change is inevitable.

The above reflects different attitudes towards change in governance by *amakhosi* who all hold some subjective views around governance, depending partly on their own social and educational backgrounds.⁵ There are also practical issues on which divergent views are expressed by *amakhosi*. These are issues such as *amakhosi*'s representation on municipalities, their voting rights in the municipal councils, clarification of their duties, payment of rates or payment for services in rural areas, and the *amakhosi*'s own remuneration. However, it seems that these issues could perhaps be tackled efficiently if *amakhosi* were to forge a united voice, or at least be able to take working decisions, about their attitude towards government so that they could start dealing with practical issues in their own forums. *Amakhosi* do have such structures at the House of Traditional Leaders, which are currently under-used for these purposes.

POSITIONS, DISCREPANCIES, AND CONTINUITIES IN THE DEMOCRATIC ERA IN KWAZULU-NATAL

Since the early 1990s, the government in South Africa has worked hard to rectify injustices of the past on paper and to institute structures to implement redress and equity. Equality is defined in terms of the Bill of Rights, which assumes individuality to be the main basis upon which equality should be assessed. It is questionable whether the customs and traditions that chiefs are supposedly guarding are amenable with this assumption. However, democracy for which a long fight has been won continues to be implemented with this assumption as one of its pillars. The equality of both spouses that is now propounded by the reformulated Customary Marriages Act, 120 of 1998, which came into effect in November 2000, is an example of the equality of individuals that may or may not clash with “custom.”⁶ It will be interesting, for instance, to follow how such acts affect the giving out of sites for residence and farming to households by *amakhosi* and how the inheritance rights of widows are affected. Clearly, the issues of policy and legislation as they impact upon customary rights and practices are a major dimension of the issues around the practice of traditional governance.

During our research, *amakhosi* themselves spoke about discrepancies with regard to democratic law and customary social control. One of our respondents (an *inkosi*) lamented the manner in which it is hard to discipline people because “If you comment on some things which are not traditional you are told people are now free” (*Inkosi* B interview: August 2000). He then talks about how the traditional customs governing sex and love are no longer respected. He and one of his headmen then talked about how the government causes disputes even within families because of instituting equality in human rights. They argued that women and men would never be equal as even the Bible proclaims so.

Another *inkosi* (*Inkosi* C: August 2000) spoke about how virginity testing, for example, is seen as a traditional way of social control that may be very important in dealing with the problem of HIV/AIDS. However, the constitution creates a situation whereby touching another person’s private parts is an infringement on privacy. In the mood of criticizing the incorporation of traditional authority jurisdictions within the eThekweni

Municipality, he continues to talk about burial customs, weddings, and hunting activities that may be constrained by the municipal authorities in terms of how they are conducted.

The demarcation was definitely not welcomed by all. Some traditional leaders regarded the process as an imposition over them and resented the demarcation of boundaries for service delivery purposes over their own. They complained that they were not properly consulted about the process. They also complained that it would cause problems of competition and conflict as some ward boundaries cut across chiefdom boundaries, splitting chiefdoms into two. In some cases, this situation is complicated by the fact that some “chiefs” have unresolved issues about land that was taken from them during the apartheid era. There are dissatisfactions about the possibility or reality of some ward⁷ (elected) councillors bringing more development to the side of the chiefdoms of their residence than to the other chiefdoms included in their ward boundaries.

In addition to the problems of confusion about boundaries and where people should expect to receive services, it seems that there is a problem of lack of proper rationalization of councillors’ protocols. When asked to comment on the relationship between elected councillors and traditional authorities, one of the *amakbosi* responded this way:

Sometimes the elected councillors do follow the *inkosi*’s instructions and respect traditional structures. They should consult with the *inkosi* or traditional authority structures. Some councillors, however, ignore the [traditional] protocol and cause confusion. It appears as though they did not read the Code of Conduct and Constitution. Some councillors compete with *izinduna* (headmen) and start giving out sites or open *inkosi*’s court and start adjudicating over disputes, instead of concentrating on issues of development. Some councillors do not know their powers and functions and they do things which create enmity. They are supposed to work with development committees and *amakbosi*, but some councillors dream of projects and just work on them without consulting the chief. (*Inkosi* B: August 2000)

Some of the problems experienced relate to lack of clarity about protocol and policy regarding the relationship between councillors and traditional authorities. This is one of the few things that the government of South Africa is taking its time to sort out in clear terms on paper, that is, in terms of policy and legislation. This slow pace on the part of government is somewhat understandable, given that the whole issue around these relationships reflects divergent values around the acquisition of public positions which, if one subscribes to only one of them, it is sometimes difficult to place the others. The KwaZulu-Natal local government has three forms of acquisition of public positions:

- Appointment – merit (this is the basis upon which the municipal and other government officials are appointed);
- Election – public preference (the councillors are elected through the voting system);
- Inheritance – ascription (the *amakhosi* gain positions through this “tradition”).

It is in the context of these ways of office acquisition that the challenge to define relationships between councillors, traditional leaders, and officials must be seen. There needs to be a candid confrontation with the issues involved such that each stakeholder can be aligned much more clearly with their functions and the lines of co-operation can be drawn. The issues at stake are around the relationship of each stakeholder to land, the relationship of each stakeholder to management and servicing of people, and the definition of the lines of accountability for each stakeholder.

Even though the relationship of traditional authorities to land is historically fuzzy, they are the key authorities in matters involving land in rural areas. Their indispensability in the issue of land is due to the sheer significance of traditional leadership structures in facilitating a communal living existence for communities that depend on flexible access to resources such as land for homes and agriculture and a tie to a social system that will not exclude them on the basis of economic incapacity. While in rural areas there are payments made (for a homestead site, or for the tribal policemen to ensure peace at one’s ceremony) and there are also rules stipulated (e.g., limit to exploitation of vegetation, a requirement for

a household to have its own toilet), the institutional mechanisms in place are not as impersonal and harsh as those of urban settings. Hence, even though problems are the same, they do not translate into the same consequences as quickly as in the urban settings. Thus we are yet to see the equivalent of street children or the homeless who sleep outside in the rural areas. The nature of authority practised by traditional leadership is different and befitting to the rural lifestyle.

The relationship between rural areas and urban areas is mediated by this quality of rural lifestyle as permitting a fall-back arena for those who need it. Even though this is largely a matter of preferred rural lifestyle, this status of things was partly reinforced by the apartheid set-up as well. Amongst the most dreaded issues during the demarcation process was the idea of a municipality. For *amakhosi* and rural people, it invoked paying rates and probably an increase and a more rigorous enforcement of rules around social life (slaughtering of animals, night ceremonial vigils and noise control, stock control, and so on). It is the kind of lifestyle of flexibility and rule enforcement with discretion that the institution of traditional leadership makes possible to preserve.

CONCLUSION: TOWARDS A CIRCUMSTANTIALLY SPECIFIC INSTITUTION

James (2001) argues that rural land has to be seen not only in terms of being an asset with economic potential linked to it but also as an important aspect of identity. In her discussion, it is clear that livelihood strategies that have been pursued in the rural setting have depended on the small income derived by household members in towns; hence, the linkage between the urban and the rural. She proceeds to argue that, since the circular migration of men in particular between rural and urban areas creates social differentiation in rural life and creates a situation of dependence of rural socio-economic life on urban (wage) support, rural development may well benefit from an urban focus in development being maintained as well. The rural and the urban have a potential to “fade imperceptibly into one another” (James 2001: 107). While her argument is, on the whole, positively suggestive, James unproblematically merges the rural and the urban

without addressing the issue of whether the identity issues that relate to ownership of land in urban and in rural settings are the same and would permit easy merging.

This identity/economy dichotomy of rural life has to be carefully examined, especially for the sake of appropriate development conceptualization. It seems arguable that the urban has not fed equitable or fair shares of production returns back to the rural, and the South African government as a machinery to facilitate this has fallen short of impact in this regard.⁸ The labour force that has been derived from the rural to supplement and facilitate the economic lifestyle in town is being exploited in terms of not receiving fair returns to their time and labour investment towards the urban and in not being catered with basic necessities even while based in urban areas for economic pursuit.⁹ This is rooted in a history of well-planned segregationist and discriminatory strategic moves of the last two decades. The current trend in this exploitative pattern is to frustrate the rural areas directly by attempting to assimilate the current social system into the urban socio-economic system, not through releasing due development focus, but by impatiently annihilating the very structure that facilitates access to a social safety net – communal entitlement to (physical and social) space. The process is not deliberate but based on a mission to achieve a tidy democracy followed by a sound investment/sustenance balance in developing the rural areas. This is however a different ethos from the one seeing the rural area as “somewhere to lay my head” that James (2001, 107) has discovered amongst her research subjects, and the one of being suspicious of the municipalities by the KwaZulu-Natal rural people during the demarcation of boundaries.

The manner in which rural people become victims of a social system rather than of their ecosystem is apparent even when one takes the route of analyzing traditional leadership in terms of customs and civil society. Mahmood Mamdani, in his book *Citizen and Subject* (1996), raises a crucial issue with regard to what is often seen as “customary” law. The colonial encounter was mediated by some cultural pragmatics from both camps – the indigenous and the colonials. To the discredit of traditional leaders, it is not clear why some of these practices were seen as deserving the status of being customary *laws* of their communities. It is not clear why, for instance, the communality of land ownership is often seen to be a customary law issue, not a fact of some historical specificity. Given

that people's use of land was not recorded in any form of "deeds records" and there were no written wills, the point of reference and of verification of any use of assets would have been the *inkosi*. How has this historically translated into a freezing of communality of ownership? What are the (seemingly unchanging) attributes indicating this communality? Mamdani argues that "The genius of British rule in Africa ... was in seeking to civilize Africans as communities, not as individuals. More than anywhere else, there was in the African colonial experience a one-sided opposition between the individual and the group, civil society and community, rights and tradition" (22). In reviewing literature on early Nguni polities, one realizes not only their links to kinship but also their flexibility to incorporation of other groups and individuals. It would seem that people knew the right lines of inheritance going all the way up to political authority, in an embracing relationship to the smaller social units; but this does not necessarily mean that property (e.g., land) would not have been "individually" owned or traced to particular household units.

Traditional leadership carries serious relevance in this scheme of things. While the current problems of state are that traditional authorities benefit from this rigidification of circumstances into customs; people who are historical subjects of these kinship-based polities do not want to abide by the rationalizations of the modern state that will manage and "tax" their meagre economic gains. The communal title thus makes sense – communality becomes social insurance.

Mamdani (2000) argues that the situation of exploitation lies in citizens not being regarded as participating citizens, i.e., they have been ethnicized and in the process made to operate only as bounded cultural or tribal groups. Admittedly, this is a historical situation which needs to be understood in order to deal with why people are reluctant to account for the costs of living as individuals or individual households. However, to prioritize this argument is to argue in terms of a technician's approach in the application of democracy, the kind of democracy based on the individuality of human rights. While historical specificity of colonial planning and conspiratory tendencies at a political level is recognized as a necessary explanation for certain socio-historical outcomes, it fails to isolate specific circumstantial issues that make an institution such as traditional leadership *continue* to be relevant for some people. Mamdani's observed ethnicization is helped by the flimsy nature of local governance from a

local point of view. The welfarist attitude by local governance towards the people has diminished and in its place competition to acquire political power is more apparent. In fact, the problem is not even empirical indications that local government is less welfarist than traditional leadership; the problem is conceptual – traditional leaders are supposed to care for their people and their needs because that is the nature of the relationship between “leader and subject.” Citizenship, on the other hand, merely enshrines obligations on the part of “subjects.” Thus it is arguable which is felt to be more “despotic” than the other, to use Mamdani’s term. A comparison of corruption is quite different from that of despotism and what Mamdani documents for traditional leadership even for KwaZulu-Natal (Mamdani 1996, 58) may be the former.

The modern approach of articulation of democracy through representation and participation fails to take into account social circumstantial sensitivities which the alternative, often cited, but not well articulated approach of *ubuntu*¹⁰ embodies. However this is a subject of a separate paper. Suffice it to say here that traditional leadership will remain a force to be reckoned with for as long as it provides a socio-economic cushion for the people, who continue to live in the imbalances of development attention directed towards the urban and the rural. People’s communal identities are the route to hang onto this cushion. The assumption that where people are dissatisfied with traditional leaders they will automatically find representative government the preferred option must be scrutinized. Even those who can afford time for deeper political analysis simply argue for one of the two popular options without thinking critically and innovatively about particular historical circumstances. Since the issues of legitimacy or the continued relevance of traditional leadership are sensitive due to the lack of defining moments in the history of the institution; it seems that administration and development of rural areas need a particular approach that allows for progress despite the sensitive issues. Such an approach would not alienate traditional leadership at this point in time in South Africa. The appropriate approach would perhaps:

- support traditional leaders with relevant tailor-made education and procedure/protocol formation,
- establish forums of dialogue and good relations between them and the elected councillors,

- prioritize issues of land management with respect to forming core focal areas for traditional authorities,¹¹
- establish a good working relationship between these leaders and the various other departments whose work overlaps with roles of traditional leaders – even while the unresolved constitutional matters around inheritance of position and democratic election are pending, and
- attempt to establish a provincial system of accountability in the traditional leadership system and procedural means of accountability with various departments.

To some degree, this is what the latest legislation (the Traditional Leadership Governance Framework Act and its provincial counterparts) seeks to do, even though, like the rest of transformation in South Africa, theory has to stand the test of practice. Implementation has to be examined and monitored for its qualitative aspects.

A fuller examination of traditional leadership will also need to engage in a debate around whether leadership and governance are different concepts and whether leadership could be of a traditional kind. Thus, traditionality could be investigated in relation to the concept to which it is tied. What this paper has done is to tease out the secular, historical materialist elements of an institution that also claims a sacred cultural ontology that another paper will have to investigate. The argument in this paper has been that traditional leadership has to be viewed in conjunction with the context it serves, which is characterized by a need to promote access to land as a residential and production resource, and flexibility in acquisition of land and basic amenities for daily survival for a populace at a socially impressionable, yet economically frustrated, level in a capitalist society. Bureaucracy and documented individualist entitlement become the actual problems, not necessarily the state, unless its role is being identified as anti-poor. Traditional leadership and communality in rural areas promote access to land and social space as one of the basic human rights. The commercialization of most things, and especially land, creates a situation in which traditional leadership as an institution is seen as a personification of a challenge against capitalist despotism.

EPILOGUE

Since the empirical research phase of this project, there have been some changes in the legislative arena of traditional leadership. Some of these changes are referred to in the text, but they will have to be examined in their own right. As a result of these changes, Houses of Traditional Leaders have been established at district, provincial, and national level, and new partnerships with all forms of governance are being forged. There seems to be a spirit of cautious but positive collaboration between the government and traditional leaders in establishing the new institutional form. Even before this happened, eThekweni municipality, through its Area-Based Management program (the Rural ABM unit), had worked on forums to enhance institutional linkages with traditional leaders. These attempts seem to have been effective in terms of implementing the legislation. The qualitative data in this paper is therefore important in terms of tracking the actual changes that must be discerned in work that examines the current context. It has also been good data to reflect on the conceptual issues of traditional leadership.



DR. MPIOLO PEARL SITHOLE,
SOUTH AFRICA. (PHOTO:
MPIOLO PEARL SITHOLE.)



INKOSI THEMBILISE VIRGINIA MAPHUMULO WITH INDUNAS. (PHOTO: eTHEKWINI MUNICIPALITY'S HERITAGE DEPARTMENT, LOCAL HISTORY MUSEUMS.)



FOLWENI DEUSE URBAN INFORMAL SETTLEMENT IN SOBONKHONA MAKHANYA TA. (PHOTO: eTHEKWINI MUNICIPALITY'S HERITAGE DEPARTMENT, LOCAL HISTORY MUSEUMS.)

NOTES

- 1 The research for this paper was afforded by funds from the Traditional Authorities Applied Research Network (TAARN) that was co-ordinated by Professor Don Ray of the University of Calgary in Canada and Professor Tim Quinlan of the University of KwaZulu-Natal (Durban campus) in South Africa. Gratitude is greatly owed to Shahid Vawda of the University of KwaZulu-Natal (Westville campus) in South Africa, who has been co-ordinator of this research in Durban, to Sibongiseni Mkhize of kwa-Muhle Museum in Durban, who conducted the bulk of the interviews, and to *amakbosi* of eThekweni municipality for participating in this research. A small grant from Dr. Noleen Turner's NRF funds of the School of Literature and Linguistics at the University of KwaZulu-Natal (Westville campus) afforded me some scope of comparison of this mainly eThekweni-based study with two Traditional Authority areas in the South Coast of KwaZulu-Natal. This paper was presented at the Anthropology Southern Africa (ASA) Conference, University of Cape Town – 24–27 August 2003.
- 2 By the time liberation came, it was not only land and power whose controversies had to be resolved; it was also that *the whole politics had changed*. However, the time and issues of transformation had already displaced the significance of starting from a clear recognition and legitimate internalization of this before all the necessary endorsements were made for democracy. It is the conscience about this fact that is referred to here.
- 3 *Ukukhbonza* was a practice whereby a household led by its head would approach another *inkosi* to seek patronage as part of his people.
- 4 From early writings such as those of historian explorers to more recent historical writings, one discerns this.
- 5 For example, factors such as age, whether or not they are regents or 'traditional' *amakbosi*, how well-educated they are, and whether they have alternative means of survival also could influence their views.
- 6 *Inkosi* Mpiyezintombi Mzimela has complained publicly about how this act impedes a man's right to decide on a polygamous household unit by requiring that a man consult his wife before marrying a second wife (*Asikhulume*, SABC1 television: 18 May 2003).
- 7 Municipal wards that indicate jurisdiction of councillors whose role it is to facilitate development are different from wards within chiefdoms (*izigodi*) over which headmen preside as an extension of traditional leadership from the main head, *inkosi*.
- 8 Serious but sporadic efforts include some development projects done by the municipalities in rural areas, and social responsibility programs towards vulnerable groups being required of the private sector to formulate. But these still lack serious considerations for the market, they lack ways of expanding economic

- nodes within rural areas and are very slow in basic infrastructural expansion. The whole ethos lacks a moral justification in serious infrastructural expenditure on what appears like an unproductive mass that will not pay back for what is brought to them, which is afforded through the productive urban centres.
- 9 The time spent in travelling to urban centres and the time people spend separated from their families (as an alternative to yielding the costs of accommodation of people's families) are not, as they should, incurred by the urban-based economic agents – not even tax derived from these agents is consciously used to deal with this dilemma.
 - 10 *Ubuntu* is an approach towards morality of social relations that suggests that rights need to be complemented by a proactive obligation to do good. It suggests that humanity embodies a conscious ability, entrenched into our rational capacity, to decide to be good.
 - 11 Traditional leaders are managing land anyway, in a manner that does not often tally with local government planning. The issue of homestead graves is an example of how 'tradition' and local government planning often clash in their land use management.

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