

TRADITIONAL LEADERS IN SOUTH AFRICA'S NEW DEMOCRACY

Leslie Bank and Roger Southall

Dick Sklar (1986, 1993, 1994) has argued for the recognition of "mixed government" as providing an increasingly widespread and important foundation for political rule in Africa today. From this perspective, "architects of government" on the continent are increasingly turning to a new form of rule that "conserves traditional authority as a political resource without diminishing the authority of the sovereign state". In Africa separate domains of authority quite normally govern the same people. "However, the second dimension of 'traditional' states-behind-the-state rarely competes with the first dimension for sovereignty, although second dimensional rulers and office holders often exercise immense moral and political authority". Indeed, whether embedded within a constitution or merely exercised informally, traditional rule tends to complement, sustain and legitimate the modern state rather than undermining it: "Mixed government implies cooperative interaction among distinct and relatively autonomous governmental institutions." Consequently, rather than traditional authority contradicting democracy, it can provide the bedrock upon which to construct new and experimental governments, including constitutional democracies.

Sklar's identification of mixed government rests upon a view that democracy is an idea to which actual countries may either more or less approximate. To assume, therefore, that democracy tends to be the property of, say, advanced industrialised western states, rather than of underdeveloped, non-industrialised African states, is to be guilty of ethnocentrism, for all states possess elements of democracy and authoritarianism. Hence, if we choose to look positively rather than negatively at Africa, where most countries are widely dismissed as groaning under the 'dictatorship of poverty' and the 'poverty of dictatorship', we will find that the continent actually constitutes a 'veritable workshop of democracy', where the ever-changing forms of government in more than fifty sovereign states represent a constant process of experiment with constitutional forms.

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Sklar's concept of mixed government, and his conception of Africa as a laboratory of democratic forms, can serve as a useful starting point for the examination of the role and prospects of traditional authorities under the new constitution in South Africa. Indeed, Sklar himself has provided a preliminary analysis which, in a rather up-beat manner, sees traditional leadership harmonizing with and promoting democratic norms and practices in post-apartheid society. In this paper, however, we are considerably more cautious. Hence whilst we endorse Sklar's broad approach, as allowing us - notably - to avoid an assumed opposition of traditional leadership and constitutional democracy in the new South Africa, we will also argue that chieftainship will contribute to that democracy only under the particular condition that it is divorced from the constitutional state's power. But that, we also argue, will require a major restructuring of rural government in the former bantustan areas in a manner which perhaps the majority of chiefs may be reluctant to contemplate.

Traditional Leaders under the New Constitution

Alongside such major innovations as a constitutional court and commissions on human rights, gender equality and restitution of land rights, South Africa's new (interim) constitution provides for the reintegration of the ten former (independent and 'self-governing' African 'homelands') and the redivision of the country into nine new regions. Achieved as a compromise between conflicting forces after a difficult process of negotiation, which began in February 1990 and ended in April 1994, the constitution has also provided for the direct election, by a system of proportional representation, of first, a 400 person National Assembly, and second, legislatures (of varying size) for all the nine regions. It has also created an indirectly constituted Senate (or national upper house), whose membership is drawn from the nine regions, each of whose legislatures have provided ten senators, nominated by political parties on a proportionate basis according to their relative performance at regional level in the April 1994 general election. A government of national unity, dominated by the African National Congress (ANC) which won 62% of the vote at national level, is similarly drawn from political parties according to their proportionate showing in the election, with regional governments composed according to the same principle. So long as the minority parties choose to continue to participate in government, this proportional sharing of power will last at least until the adoption of a final constitution, whose formulation (according to entrenched constitutional principles, procedures and a set time frame) will be the responsibility of a Constituent Assembly composed of the National Assembly and Senate sitting together.

As implied by the above, the constitution is based primarily upon notions of liberal and consociational democracy. None the less, it simultaneously provides

for the recognition of existent legally constituted traditional authorities, and for their continued supervision of indigenous laws and customs, subject to the latter's regulation by constitutional law and entrenched rights. It furthermore accords them the right to become *ex officio* members of local governments within whose jurisdiction they fall, and to be elected to local office. Meanwhile, beyond the local level, although it allows them no direct representation in the new legislatures, it does provide for traditional leaders to play an advisory role at both regional and national levels of government. The provisions may be summarised thus:

Legislatures of each province in which there are recognised traditional authorities will establish Houses of Traditional Leaders, composed of representatives elected or nominated by such authorities in the province concerned. These Houses will have the right to be consulted by, and to advise and make proposals to, the provincial legislatures concerning traditional matters or indigenous law and customs. Opposition by a provincial House to any Bill concerning such matters will restrain regional legislatures from passing that Bill for 30 days.

A similarly advisory Council of Traditional leaders, consisting of a chairperson and 19 representatives chosen by an electoral college constituted by members of the Houses of Traditional Leaders, will be established to make recommendations to the national parliament, and will likewise possess delaying powers of 30 days. The Council may also be requested by the President to advise him or her on "any matter of national interest".

Finally, in order to avert a threatened boycott of the first democratic election by the Zulu based Inkatha Freedom Party (IFP), an amendment to the constitution was accepted whereby provincial constitutions should be allowed to "provide for the institution, role, authority and status of a traditional monarch", particularly "for the Zulu Monarch in the case of the province of Kwazulu/Natal".

The responsibilities and powers ascribed to traditional leaders were considerably less than their representatives had lobbied for during the process of constitutional negotiation. This indicated, at one level, the determination of the key constitution-makers to base the new dispensation upon an equality of individual rights (thereby blocking off, *inter alia*, claims for representation by race, 'nation' or ethnic group). But it also reflected the fact that chiefs in South Africa have historically played a highly ambiguous role.

Chiefs From 1910: The Ambiguity of Tradition

The South Africa Act of 1909 placed control and administration of 'native affairs' squarely under the Governor-General. The primary concern of government was to prevent any revival of the military power of the African chiefdoms, whose resistance to white encroachment and settlement had only relatively recently been broken: the Ninth (and last) Frontier War was waged against the Xhosa in 1878, Cetuywayo had led a Zulu attempt to throw off the colonial yoke in 1879, and the Basotho Gun War had erupted in 1880. Accordingly, where chiefdoms survived as territorially based corporate entities, overwhelmingly in those areas which after passage of the Native Land Act of 1913 were designated 'native areas', official policy was designed to bypass and weaken the chiefs (Thompson 1975). A system of direct rule was imposed upon the formerly autonomous chiefdoms, the legitimacy of chiefs was deliberately undermined, and subaltern authority was widely - but not uniformly - devolved upon headmen.

This model had earlier been developed in the Transkei, the whole of which by 1894 had become subject to the Cape Government, which had wrought a fundamental political change:

No longer were the grass-covered plains and mountain uplands the inalienable territory of small, autonomous chiefdoms.... By a stroke of the pen political structures had been suddenly widened and the chiefdoms transformed into units of local government....

This was effected by introducing an administrative system that cut across tribal boundaries. A grid of twenty-seven magisterial districts, that paid scant regard to the old political units, was imposed on the tribal pattern.... The districts themselves were subdivided into locations, approximately thirty to a district, and over each was placed a headman, appointed to the post by the administration.... Although, in fact, succession to office was almost invariably inherited, in law the headman was appointed by Government and was subject to bureaucratic rules of censure and dismissal. The chiefs, as such, were all but ignored.

The main reduction of authority was in the judicial sphere. No chief or headman was permitted to decide any criminal case and even in civil cases their role was merely one of arbitration. They had no power to enforce their decisions and any litigant not satisfied with these decisions could bring his case to the magisterial court where it was heard *de novo* (Hammond-Tooke

1975: 77-78).

The more general implementation of this model after 1910 was later capped by the Native Administration Act of 1927 which, *inter alia* gave the Governor-General systematic powers to appoint, recognize and remove chiefs, and to compel their service as administrative functionaries.

As noted by Thompson (1975: 284), "the consequences of political subjection were not uniform for the African peoples of South Africa". In the Transvaal and the Orange Free State, some African communities lost all or most of their land to white settlements, and their descendants were dispersed amongst other chiefdoms or survived as small groups on white farms. Likewise, the intensity of the impact of western culture varied from region to region, with the larger reserve areas of Transkei and Ciskei being subject to a greater infusion of mission stations and schools, white traders and labour recruiting agencies. However, as Thompson goes on, whilst these variables meant that Africans had "a wide range of life experiences", and the pace of change varied immensely, the direction of change was similar for all: that is, political subordination led to the transformation of the African peoples of South Africa from "self-sufficient and autonomous chiefdoms" into either communities of peasants, living on attenuated tribal lands which became increasingly dependent upon the export of migrant labour, or wage labourers who worked for firms and farms and lived in areas owned by whites.

These various developments might have sounded the death knell of chieftaincy, but they did not. One important reason was that in reserve areas, Union 'Native Policy' favoured the entrenchment of communal land tenure, which worked to enhance chiefly influence over the allocation of land. In pre-colonial times, notes Beinart with regard to Pondoland,

chiefly control and the ideology surrounding it were expressed in terms of rights over followers, tribute and cattle. Once a homestead had been established, the immediate control over allocation of land and the breaking of new land lay with the senior men of the homestead, though the local political authority was probably consulted. But by the 1920s and 1930s, when homestead sites and plots could not always easily be found in the immediate vicinity of established homesteads, chiefs and headmen took on a far more central role in land allocation. This was an area in which the state permitted the extension of their authority... (Beinart 1982: 126.)

Such control enabled them to enjoy favourable access to land, and hence to accumulate levels of wealth in terms of stock and the production of crops which

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increasingly differentiated them from the mass of the reserve populations. Over time, however, their income from their control of land became considerably more important, not least because with increasing land shortage it worked to their advantage to admit as large a population as would settle in their locations, thereby broadening the base from which they could collect dues. None the less, in spite of this, the chieftaincy continued to enjoy much popular respect: on the one hand because the retention of communal land tenure allowed the mass of people to retain some influence over land allocation through the political processes surrounding local decision-making; and on the other because chiefs were viewed as a bulwark against any more radical intrusion into land-holding by the state. Without the chiefs, without communal land tenure, the people of the reserves would have been reduced to the landless condition of the African population of the white areas of South Africa. Meanwhile, in addition, precisely because they were largely excluded from the bureaucratic hierarchy, with their official role reduced to arbitrating in civil cases according to customary law, chiefs were substantially shielded from popular disaffection, and the institution and the integrity of traditional leadership was to prove remarkably resilient.

It was upon this retention of public respect that the bantustan system, which was implemented after the 1948 apartheid election, and which more than restored the traditional authority of the chiefs, sought to capitalise.

Separate development was promoted by the National Party government as a strategy to head off demands for enfranchisement by the increasingly politically assertive African majority. South Africa, it was now said, was a multi-national state, and each of these diverse nations wanted to retain their particular identity and to determine their own future. In particular, each of the (variously) eight to ten Bantu peoples were connected to a particular territory or 'homeland', the basis for which had been provided by 'history' (in reality, past conquest), as ratified by the 1913 and 1936 Land Acts, which allocated 87% of the total land area of South Africa to whites. Eventually the South African Government was to devolve increased constitutional responsibilities upon these diverse ethnic nations under a programme of internal decolonisation, with a view to awarding citizenship to blacks in their homelands as a substitute for their laying claim to political rights in 'white' South Africa. This culminated in the grant of full scale 'independence' for Transkei (1976), Bophuthatswana (1979), Venda (1979) and Ciskei (1981) before the bantustan project ran out of steam in the face of mounting black political challenge internally and increasing pressure internationally.

The bantustan system developed on the initial foundation of the Bantu Authorities Act of 1951, which was applied by stages to all the different reserves. Implemented first in the Transkei from 1956, this sought to link a controlled revival of the chieftaincy to the creation of political institutions which would

provide the basic machinery for 'constitutional development'. Chiefs and their councillors were appointed to Tribal Authorities, and the heads of these to Regional Authorities (normally headed by senior or paramount chiefs), with the system then capped by a Territorial Authority, which normally comprised all chiefs plus certain of their councillors. By granting to chiefs certain executive responsibilities, and greater authority than they had previously enjoyed under 'traditional' forms of government, and with headmen (previously falling under the white Administrative system) now brought under the Tribal Authorities, the chieftaincy became progressively incorporated into the apparatus of the apartheid state. This was to be made explicit from 1963, in which year the first bantustan election saw 45 elected members of a new Legislative Assembly (which now replaced the Transkei Territorial Authority) outnumbered by some 64 *ex-officio* chiefs. Application of this model elsewhere was thereafter to ensure that the principles of chieftaincy were never to be outweighed in the construction of bantustan legislatures. However, simultaneously these developments were to lead inexorably to a massive erosion of the legitimacy of chieftaincy, not least because their new authority enabled chiefs to make much heavier financial impositions upon reserve populations via their increased control over allocation of key resources (Southall 1983: 114-45).

The official revival of chieftaincy, when mixed with an element of democracy in bantustan parliaments and combined with selected aspects of the post-colonial African state (national flags, bureaucracies and armies), was presented by the architects of separate development as providing for a synthesis of tradition and modernity which was peculiarly appropriate to as yet immature African nations undergoing a difficult historical transition. In contrast, one of the most influential commentaries upon the model was to observe:

The practice and policy of Separate Development must be seen as the attempt to retain, in a modified form, the structure of the 'traditional' societies, not, as in the past, for the purpose of ensuring an economic supplement to the wages of the migrant labour force, but for the purposes of reproducing and exercising control over a cheap African industrial labour force in or near the 'homelands', not by means of preserving the pre-capitalist means of production but by the political, social, economic and ideological enforcement of low levels of subsistence (Wolpe 1975).

No longer could the reserve economies be characterised as retaining predominantly pre-capitalist features, for they had now become absorbed - through their crisis of declining productivity - into the dominant capitalist mode. Consequently, it had become necessary for the state to erect a new and more

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repressive apparatus of political control, based upon the deliberate cultivation of the dominance of the chiefs under the imposition of the Bantu Authorities system.

Against this, it is important to stress that the alternative tradition of chiefly resistance to colonial oppression never completely died. Prominent traditional leaders - from the High Commission Territories as well as from South Africa - had been present in 1912 at the founding meeting of the ANC, whose first constitution actually provided for an Upper House of Chiefs to accompany a Lower House of Commoners (Kuper 1975: 444). Subsequently, although the Congress was to be largely guided by more educated and more urbanised strata, and although over time the ANC had increasing difficulty in retaining the allegiance of a chieftaincy ever more dependent upon the good will of the authorities, the connection with the chiefs was never to be completely lost, and was to be most dramatically represented by the election to the national presidency of the ANC in 1952 of Chief Albert Luthuli. Significantly, of him, chief of a small reserve in Natal, Lodge (1990: 61) comments that, alongside his religious faith and principled belief in non-violence, it was his experience as a local administrator which gave him a particular insight into the concerns of ordinary people.

Luthuli's national profile was complemented by more local resistances, notably by those few chiefs who were farsighted enough to see that the imposition of the bantustan system was likely to be corrosive of chieftaincy as institution. Amongst the most prominent was Paramount Chief Victor Poto of Western Pondoland, who in 1963 led the campaign in the Transkei's first election against the imposition of Separate Development upon that territory. A conservative who saw no necessary discrepancy between traditional values and liberal democracy, Poto won majority support amongst those elected to the new Legislative Assembly, only to be deprived of victory by the overwhelming support of the mass of chiefs for the collaborative Paramount Chief Kaiser Matanzima of Emigrant Thembuland (Southall 1983: 117). Poto's banner was subsequently to be picked up by Paramount Sabata Dalindyebo of Thembuland (Nelson Mandela's uncle), who threw his weight behind various opposition parties and who, after being subject to considerable harassment and eventual deposition from his paramountcy, fled Transkei in 1980 and surfaced in Lusaka, where he proclaimed his allegiance to the ANC (Southall 1983: 258-60).

Dalindyebo's fate was illustrative of the fact that by the late 1960s, following the suppression of the ANC and the vigorous launch of the bantustan programme, chiefly resistance to apartheid came to be expressed in more ambiguous ways. Chief Gatsha Buthelezi, leader of the Kwazulu bantustan since 1970 and subsequently founder of Inkatha, would - albeit highly controversially - lay claim to having been at the front of the struggle for liberation, by using the protection

which his official position gave him to destroy apartheid from within (e.g. Mzala 1988). Similarly, there were a number of chiefs who challenged collaborative homeland leaderships from within the context of their participation in bantustan political structures, although in most cases such opposition was entangled with local tribal and political disputes considerably more than with matters of principle (Kotze 1975: 137-43). Importantly, however, whilst the burgeoning corruption of the bantustan authority structures was to fuel escalating popular resistance to the state in the 1980s, on some occasions chiefs emerged to lead their communities in opposition to forced removals or compulsory incorporation into homelands (see e.g. Cobbett and Nakedi 1988). In Kwe-Ndebele, too, the royal family played a key role in coordinating opposition against a projected move to 'independence' favoured by the bantustan's chiefly-dominated government (Transvaal Rural Action Committee 1988).

Despite this minority roll-call of honour, the implementation of apartheid was to see the chieftaincy very largely caught up in the machinery of repression and control. However, with the eventual collapse and displacement of bantustan structures after 1990, the situation became much more fluid, with the explicit realignment of the tradition of chiefly resistance to the politics of liberation under the ANC.

The Emergence of CONTRALESA: In Search of a National Role, 1987-1994

The Congress of Traditional Leaders of South Africa (CONTRALESAs) was formed by KwaNdebele chiefs and headmen in September 1987 during the struggle against 'independence' in that homeland. The broad aim of the organization was to oppose the homeland system. According to its constitution, CONTRALESAs sought to unite all traditional leaders and to school them in the politics of liberation, to fight for the eradication of the bantustan system, to win back the lands 'stolen' from their forefathers during colonialism, and to contribute to the struggle for a "unitary, non-racial and democratic South Africa" (SAIRR 1987/88: 92)

The expansion of the organization beyond KwaNdebele followed and, in June 1989, Chief Mhlabunzima Maphumulo, a Zulu chief opposed to Buthelezi became its first president. Maphumulo's aim was to steer CONTRALESAs along a relatively neutral political line between the ANC and the IFP in Kwazulu. His period in office was, however, shortlived, and by August 1990, Chief Patekile Holomisa, a cousin of former Transkei military leader Bantu Holomisa took over as president (SAIRR 1989/90: 510; WM: 24-26 August 1990). Holomisa's capture of the presidency would seem to have been a deliberate move by the ANC to

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appropriate this particular constituency shortly before the organization's first national congress at Broederstroom near Johannesburg.

At the official launch of CONTRALESA as a national body, Chief Holomisa emphasised that the primary objective of his organization was to restore 'dignity, reverence and respect' to the ancient institution of chieftaincy, which had been manipulated and abused by the Apartheid regime. He stressed that chiefs must shed their image as collaborators and government 'sell-outs' and had to prove that they were 'worthy leaders' who could make a real contribution in the struggle for national liberation (DD: 18 September 1990). Furthermore, he suggested that chiefs would have to become more receptive to processes of democratization at the village level and should make themselves 'accountable' for their actions at the local level. In particular, he pointed out that they would have to learn to co-exist with democratically elected residents' associations (DD: 18 September 1990).

The message was welcomed by the ANC. In fact, just a few weeks after his release from jail, Nelson Mandela told a gathering at the University of the North that the formation of CONTRALESA was a 'tremendous development' and called on rural people to respect their chiefs, especially those who had fought against Apartheid (SAIRR 1989/90: 515-6). At his political meetings in rural areas, Mandela embraced chiefs and welcomed them into the fold of the liberation movement. He stressed that the ANC welcomed any homeland leaders who genuinely repented of participation in the old oppressive structures of Apartheid. The ANC's pragmatic approach to the chiefs and homeland leaders was part of its strategy to develop a broad alliance in the build-up to constitutional negotiations, and to open up a divide between the government and its conservative African supporters. Mandela's campaign met with considerable success as various chiefs around the country began to distance themselves from the old regime and to climb aboard the liberation bandwagon.

Members of the Lebowa College of Chiefs were amongst the first to pledge their support to the ANC, and they were followed by a handful of chiefs in Kwazulu, whose declaration in favour of the ANC earned them the enmity of Buthelezi (SAIRR 1989/90: 515, 713). In the Transkei the traditional leaders joined both CONTRALESA and the Transkei Traditional Leaders Association (TTLA) after 1990. The TTLA claimed to be politically non-aligned and formed a front for non-ANC supporting chiefs in the region. In the Ciskei, General Gqozo set up the Ciskei Traditional Leaders Association (CTLA) in 1991 in opposition to CONTRALESA and encouraged local chiefs to join up, which they did until Gqozo began to lose power in 1992. Thereafter, they shifted allegiance to CONTRALESA. In Kwangwane, chiefs continued to support the incumbent Chief Minister, Enos Mabuza, and his popular Inyanda Movement, but when he resigned as Chief Minister they too shifted their support to CONTRALESA in the

early 1990s. In Qwaqwa, chiefs and headmen deserted the ruling Dikwankwetla party shortly after the 1990 elections there to join CONTRALESA. It was only in Kwazulu that CONTRALESA had a limited impact; there the majority of chiefs have remained loyal to Buthelezi and the IFP.

Despite CONTRALESA's clear alignment with the ANC, Holomisa did try to carve out an independent role for the organization as a neutral broker in the bloody conflicts on the Reef during the early 1990s. He argued that the competing political parties in these conflicts were in no position to resolve the violence and that traditional leaders and church groups, as custodians of community values and traditions, were well-placed to solve the problem. CONTRALESA's first official intervention of this sort occurred in 1991, when Chief Holomisa led a delegation to the war-torn East Rand townships. The visit turned into a fiasco when Holomisa and other CONTRALESA leaders delivered a scathing verbal attack on the IFP and its leader, Gatsha Buthelezi (DD: 27 March 1991). This put paid to CONTRALESA's aspirations as a neutral broker in national political disputes. The only mediating role CONTRALESA could find for itself after this incident was a referee in a Transkei labour dispute (DD: 27 May 1992).

Of even greater significance to CONTRALESA's hopes of establishing itself as a national political player was its failure to send a delegation to CODESA, the Convention for a Democratic South Africa, in 1991. The aim of CODESA was to include important political players from across the political spectrum in broad-ranging discussions about the future of democracy in the country. Alongside those of the government and the ANC, it included delegations from five parliamentary parties, the Indian Congress, the South African Communist Party as well as the IFP and other parties from homelands. CONTRALESA was, however, excluded, in part because there was resistance from the ANC and other forces to the attempt to secure a separate invitation. It was felt that, if CONTRALESA was admitted, there would be ground for including a host of other interest groups (notably business and labour).

CONTRALESAs exclusion from CODESA came as a major blow to the organization. Since its inception, the leadership of CONTRALESA had argued for traditional leaders to have representation at the national level either through a national house of chiefs or through the direct involvement of chiefs in the senate. Both these schemes came to nought in the political settlement agreed upon at Kempton Park. The best that CONTRALESA could do was to secure regional representation through the formation of houses of chiefs in each of the nine new provinces. And even here, their role has been whittled down to an advisory one. CONTRALESA's failure to find meaningful representation at the national level came as a bitter disappointment. Indeed, at their conference of June 1994, CONTRALESA members continued to express their disgust at being excluded

from the National Assembly and Senate (The Citizen: 20 June 1994).

As a result of these events, CONTRALESA has shifted its focus to the provincial legislatures where according to the interim constitution they will serve only in an advisory capacity. As the date for the institution of the provincial houses of chiefs draws nearer, the outcry from chiefs, who have long been accustomed to dominating regional and local politics through the old bantustan legislatures, has grown louder. Throughout 1994 and 1995, CONTRALESA regularly rejected the terms of reference set out in the interim constitution, saying that chiefs are fit to rule not only to advise. However, the realization by chiefs that they are on the verge of losing power has galvanized them into action. From Thahoyandou in Venda to Bisho in the Eastern Cape, traditional leaders have come together to express their disgust at the new interim constitution and have suggested that they will not participate in the November 1995 local government elections unless they are given more power at the regional and local levels.

Chiefs, Comrades and Civics: CONTRALESA and Popular Struggles

In view of CONTRALESA's strategic shift in focus from the national to the regional level, it might well be asked what are the prospects for 'mixed government' at the local level? Is it indeed possible, given the role of chiefs in the maintenance of Apartheid structures, that they can now realistically expect to find a role for themselves in rural local government? Will they be accepted by the people? And what is their relationship to the new democratic structures on the ground in the countryside? These are vexing questions which need to be addressed in their local and regional contexts. In this section, we will explore local situations in two regions: the Eastern Cape and the former Transvaal, especially the former Lebowa bantustan of the new province of Eastern Transvaal, now renamed Mpumalanga.

In the rural areas of the former Transvaal province, chiefs, commoners and migrants joined forces in the 1950s and 1960s to oppose the implementation of Bantu Authorities and agricultural 'betterment' schemes. In some areas, such as Sekhukuneland in the north and Marico in the west, rural people mobilized *en masse* behind their chiefs to reject the creation of tribal authority structures. The slogan around which this resistance focused was: *kgoshi ke kgoshi ka batho* (a chief is a chief by his people). This resistance was crushed in the 1960s when chiefs were finally co-opted into the bantustan system and new forms of tribal government were imposed. However, by the mid-1980s a new rebellion had begun to ferment in the Transvaal: this time it was not led by chiefs, but by angry youths who declared that chieftaincy was a 'corrupt institution' and that its incumbents

were 'lackeys' of the Apartheid state.

During the period between the 1960s and the 1980s, chiefs asserted and retained their power by using the new powers of control devolved to them by the Apartheid state and by actively seeking alliances with other local elites. In Bushbuckridge district of Mpumalanga, Ritchken (1989) reports that local chiefs, who were given new powers over school funds and business licensing, quickly formed close alliances with local school principals and businessmen, who were dependent on them for access to resources. This patronage system allowed chiefs to exclude ordinary people from participation in rural governance and helped them to assert control over potential rivals. This pattern of patronage politics was duplicated in other parts of the former Transvaal bantustans (Keenan 1987; Delius 1990; Van Kessel 1993).

In this context it is not surprising that the first serious challenge to the power of chiefs in the Transvaal bantustans came from the youth (or comrades) at bantustan schools. In the Mapulaneng district, which was one of the first to experience youth politicization, the formation of the Brooklyn Youth Organization in 1986 acted as a catalyst for 'comrades' to rise up against all symbols of power and authority in the homeland. In this district, local chiefs and their *dintona* (councillors) bore the brunt of youth anger as their houses were burnt down, they were accused of witchcraft and villages were instructed to stop paying taxes and rents (Niehaus 1993). Further north in the Sekhukhuneland area, a similar pattern emerged after the launching of the Sekhukhuneland Youth Congress (Delius 1990). Here schools were burnt, businessmen chased away from their villages, and chiefs and headmen were assaulted. According to Van Kessel, comrades in this area repeatedly told her that their main aim was to 'make revolution' and 'fight chiefs' (Van Kessel 1993: 104).

The meteoric rise of the youth movement under the banner of the South African Youth Congress (SAYCO) and the United Democratic Front (UDF) in the mid-1980s rapidly and systematically destroyed chiefly power in many former homeland districts in Mpumalanga. The power of the comrades lay not only in their ability to introduce new political ideologies and forms of protest to challenge what had become a corrupt and undemocratic institution, but in their ability to take hold of certain aspects of *tradition*, especially the direction and control of witchcraft accusations, and turn these against the chiefs (Niehaus 1993). Through the manipulation of witchcraft, the comrades introduced a form of political tyranny of their own. They would identify their political adversaries at mass rallies and then set out to ferment rumours that they were witches (*baloi*), who needed to be removed from community life. In the face of fear, chiefs, *dintona* and ordinary residents of rural communities were left powerless to challenge the ascendancy of youth politics in Lebowa in the 1980s.

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Indeed, it was only with the unbanning of the ANC and other liberation movements in 1990 that the balance of power in rural areas in Lebowa began to shift away from the youth. Of critical importance here was the decision of the ANC to attempt to woo former homeland leaders in the run up to the 1994 elections and to encourage traditional leaders to join forces with CONTRALESA. These overtures, which were rejected in homelands like Bophuthatswana and Kwazulu, were enthusiastically accepted in Lebowa. In fact, as early as 1990, the Chief Minister of Lebowa, Nelson Ramodike, announced that he had decided to support the ANC and was encouraging all his traditional leaders to join up with CONTRALESA. Mandela responded immediately to Ramodike and made several visits to rural areas in Lebowa, where he called on chiefs to come up to the podium and shake his hand. This naturally caused confusion and anger among the youth, who had long regarded Ramodike and his chiefs as their archenemies.

The intervention of the ANC leadership on the side of the old homeland elite created ambiguity and confusion. In 1990, Delius observed in Sekhukhuneland that:

CONTRALESAs has made inroad in the region but some of the chiefs who have joined have a history of bitter conflict with their own communities. This fact, along with the wider ambiguity in the role of chiefs, has made for an - at best - uneasy relationship between CONTRALESA, youth and migrant grouping. (Delius 1990: 25)

This observation is born out by Van Kessels' research. She notes that the arrival of CONTRALESA and the centralization of ANC Youth League structures in this region undermined the political momentum and control exercised by the youth at the local level. She suggests that by shoring up traditional authorities the ANC leadership was able to restore a balance of power between chiefs, migrants and youth at the local level. After the tyranny of youth rule, many villagers welcomed the restitution of forms of traditional authority and an end to politically driven witch-hunts and killings.

The result of these developments in Lebowa has been that chiefs, youth organizations and residence associations have learnt to co-exist and even to work together. In the Mapulaneng district, the spirit of co-operation and mutual acceptance was evident as early as 1991 when youth leaders attended the inauguration of the new chief of Green Valley village (Niehaus, personal communication 1995). This step was in line with a shift in policy among youth and civic organizations to negotiate with traditional leaders and persuade them to pursue more accountable forms of local government (Ritchken 1993: 107). The attendance by the comrades at this chief's inauguration was not merely symbolic:

it has heralded the beginning of a new era of co-existence and co-operation between civic, youth and traditional authorities at the local level.

Recent evidence from Mapumalanga indicates that chiefly courts and 'people's courts' co-exist at the local level. In many areas, the older more conservative members of the community continue to patronise the chief's court, while the youth are more inclined to settle local disputes at the 'people's courts' - set up during the youth rebellion of the 1980s. What is significant about this 'mixed justice system' is the extent to which cases are now referred from 'people's' to tribal courts and visa versa. In matters concerning tradition and custom, the chief's court is often allowed to take precedence, while in matters concerning political issues the people's court is given precedence (Niehaus, personal communication 1995). Ironically, an especially close relationship has developed around the issue of witchcraft. Since the election of April 1994, more than 70 lives have been claimed in witch-related killings in Mpumalanga (WM: 27 February 1995). To deal with this crisis situation, chiefs and civics have co-operated extensively at the local level and have worked together to try to bring the situation under control.

Throughout the 1990s, comrades, chiefs and civic bodies have all at various times promised to deliver basic services such as water and electricity to local communities and they have all failed in this objective. This experience has resulted in the realization that campaigns for service provision are more likely to succeed through co-operation. This has helped to bring competing interest groups at the local level together to solve common problems. By March 1995 sufficient progress had been made in the relationship between youth and civic groups, on the one hand, and chiefs and headmen, on the other, that the traditional leaders of Mpumalanga were the first to announce their full and unconditional support for the forthcoming local government elections (ST: 15 March 1995).

By contrast to the situation in Mpumalanga, the prospects for 'mixed government' at the local level have deteriorated, rather than improved, in the Eastern Cape in the 1990s. In 1990, the former Ciskei seemed on the brink of transition to a more democratic local government system after the Gqozo coup. When General Gqozo seized power from the Sebe regime, he declared that the old tribal authority system would be dismantled and restructured to allow for greater democratic representation at the local level. This announcement excited the people of the former Ciskei who took to the streets singing: *Iwile, iwile, inyheke ka Sebe* (the big lip of Sebe has fallen) (Manona 1995: 10).

In the aftermath of the coup, Gqozo encouraged people to defy the old chiefly system and set up their own democratic political structures. This created the real opening for youth and residence association bodies to start operating. Manona points out that the youth of the Ciskei seized the political moment:

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In the months following the coup in virtually every village the youth became tightly organized and tirelessly pursued their goal of mass political education. This was acted out through a cultural programme which enabled the various village units to associate with each other... In all the villages, it was the youth who called meetings and persuaded adults to form residents' associations (Manona 1995: 11).

As headmen resigned or were replaced by the new residents' associations throughout the Ciskei, Gqozo began to change his mind about his alliance with the 'liberation movements'. In 1991, in an astonishing move, Gqozo announced that all headmen should be returned to office and that the old tribal system should be re-introduced. In the same breath, Gqozo also banned all residents' associations. In the months that followed, 198 headmen were re-instated amidst widespread unrest and protest in rural areas. By 1992, 36 of the headmen had lost their homes due to arson, 6 had been killed and 39 had resigned from office for fear of their lives (DD: 5 December 1992).

Manona (1995) notes that in the Burnshill district, Gqozo re-appointed five headmen in 1992. By 1993, one had lost his home, another had resigned and the remaining three met in secret at the home of the local chieftainess. Tribal authority rule had effectively stopped functioning, leaving the Burnshill Residents' Association (BRA) in charge of the community. This process has been duplicated throughout the former Ciskei. In many villages, chiefs and headmen are no longer present and community affairs are being run by SANCO affiliated residents' associations. The main function of the residents' associations has been to settle local disputes and to attempt to secure funds for the development and upgrading of services. Many people in these villages, especially the youth, claim that the institution of chieftaincy and the notorious headman system was so corrupt and repressive in the past that they do not see any meaningful role for either chiefs and headmen in a future local government dispensation (BRC 1995). There are, nevertheless, a few villages in the Middledrift and Zweledinga districts in the former Ciskei where people still remain loyal to their chiefs and are in favour of the maintenance of chiefly rule (BRC 1995: 7).

Given the dismal failure of Gqozo's plan to bolster traditional authority in the Ciskei, he quickly moved in 1991 to set up the Ciskei Traditional Leaders Association (CTLA). The aim of the CTLA was to unite local chiefs and headmen and to offer them political and material support in the face of popular unrest in rural areas. However, when leading figures in the CTLA had their houses destroyed and were intimidated by the new youth and civic organizations, traditional leaders lost faith in Gqozo's plan and shifted their allegiance to CONTRALESA. This involved distancing themselves from the older homeland

authority structures and embracing the broad aims of the ANC.

However, despite attempts by some chiefs and headmen to realign themselves politically, the position of the regional SANCO office has been that, because chiefs and headmen in the former Ciskei are not elected by the people, they have no right to rule. In 1995 the publicity secretary of SANCO, stated that it would be unacceptable to them for traditional leaders in the province to operate in more than an 'advisory capacity' to local and regional authorities as they were not 'democratically elected' (DD: 6 January 1995). This was endorsed by the Minister of Housing and Local Government in the Eastern Cape, who stated that: "There will be no headmen in this province any more. We want people who are democratically elected" (DD: 20 January 1995). These statements have outraged CONTRALESA, which has retaliated by demanding that the unpopular headmen system be reintroduced in the former Ciskei region.

The war of words that has broken out between SANCO and CONTRALESA in the region has taken its toll at the village level where kidnappings, politically-motivated assaults and even murders continue to be reported (e.g. WM: 18-24 November 1994). These acts are part of the ongoing struggle which has been raging since 1991 between traditional leaders and residents' associations in the Eastern Cape. In fact, these struggles are now so intense that President Nelson Mandela has visited this province on numerous occasions to try to resolve them. He has repeatedly appealed to chiefs and civics to bury their differences and pursue peace in the run-up to the November local government elections. His efforts have yet to bear fruit. The most recent stance of traditional leaders in the provinces is that they will not participate in democratic local government elections (DD: 20 September 1995).

While conflicts between traditional leaders and civics have been most intense in the former Ciskei, these struggles are also widely evident in the former Transkei homeland. In 1987, the Holomisa coup in the Transkei raised similar hopes to those of the Gqozo coup in the Ciskei in 1990. But, unlike Gqozo, Holomisa never attempted to dislodge traditional authority in rural areas. He merely removed political rivals from office. As a result, youth and civic organizations took longer to develop in this area and, with tacit support from the Holomisa regime, chiefs have been much more successful in holding onto power. The popular challenge to traditional authority has consequently been much weaker in the former Transkei than in the Ciskei. This has created a situation where chiefs are reluctant to consider sharing power with democratically elected residents' associations. They remain adamant that they are entitled to rule in the rural areas by birthright. In September 1995, chiefs in the Transkei emphasised this point by raising new fears about their participation in the November 1995 local government elections (DD: 25 September 1995).

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The two case studies presented here therefore offer very different prospects for the future of mixed government at the local and regional level. In Mpumalanga, as we have seen, the sustained youth rebellion of the mid-1980s so radically undermined the power and authority of traditional leaders that they were ultimately forced to seek an alliance with the very forces that had toppled them. However, by the same token, the young comrades had become so obsessed with their own political agenda of destroying all forms of generational power, including chiefly power, that they had already begun to lose considerable popular support by the 1990s. At the local level rural people could no longer see the difference between the past tyranny of chiefly corruption and the present injustices of 'revolutionary people's power'. This created a situation where neither faction could effectively rule without the other, and it is this salutary fact which lies behind the contemporary politics of compromise and co-operation that is now evident in many rural villages in the former Lebowa homeland.

By contrast, local-level power struggles around the issue of traditional leadership came very much later in the Eastern Cape and in a context of rapid national and regional political transformation. Youth rebellion in the Ciskei was, for instance, contained until 1990, and even then it was not spontaneously generated from below. It was General Gqozo who unleashed this process by calling on 'democratic forces' to overturn the headman system. In the Transkei, the challenge to chiefly power from civic and youth organizations arrived even later. In some districts, youth and civic mobilization against traditional leaders only began after the release of Nelson Mandela and the unbanning of the liberation movements (Tralso 1992). In both these areas, the most intense phase of struggle against corrupt traditional authorities came at a time when these leaders were already well-organized in associations such as CTLA, TTLA and CONTRALESA. These organizations, which were able to represent traditional leaders at regional and national level, shielded them from the full wrath of popular rebellion at the local level. They also have allowed chiefs and headmen to re-group and press new demands for the restitution of traditional authorities in rural areas.

The shift in CONTRALESA's efforts from the national to the regional level has hardened the political differences between hereditary and democratic leaders at the local level in the Eastern Cape. Chiefs now claim that they have a constitutional right to play a leading role in local and regional government and insist that they will not be pushed aside by SANCO and its affiliates. SANCO, on the other hand, is arguing that traditional authorities in the Eastern Cape have no legitimacy and should not be included in future local government arrangements. The failure of traditional leaders and civic structures to peacefully co-operate and co-exist at the local level in the Eastern Cape thus has a great deal to do with the broader political context. This is not to suggest that forms of mixed government will not

eventually emerge in this region, but rather that the present political conditions are not conducive to any process being made in this direction at the moment.

Conclusion: Mixed Government or Mix Up in the New South Africa?

Will traditional leadership sustain or subvert the making of South Africa's new democracy? Does the principally advisory role provided for chiefs under the new constitution achieve an appropriate balance between democracy and tradition? Will the proposed arrangements harness the progressive, and discard the repressive, aspects of the traditional leaders' ambiguous tradition? Will the new constitution, in the words of the ANC's guideline of 1988, ensure that the "institution of hereditary rulers and chiefs shall be transformed to serve the interests of the people as a whole in conformity with ... democratic principles"?

Accepting at face value that in South Africa traditional leaders have organised to protect and promote the institution of chieftainship by harmonizing their interests with popular aspirations for democracy, and arguing that such post-apartheid provision for the existence of constitutional monarchy within a sovereign republic amounts to a "striking innovation in modern constitutional practice", Sklar (1994) proposes that the new constitution exemplifies the tradition of mixed government which he commends. From this perspective, the bedrock of traditional identity could prove to be a relatively stable foundation of political order, and mutual accommodation between the old and the new, upon which to construct the new democracy.

Support for the institution of chieftaincy, and the traditional values of consensus and discussion that it supposedly represents, remains widespread in the former bantustan areas of South Africa, suggesting that it could indeed perform a complementary role to democratic structures of government in the way that Sklar suggests. This view is endorsed by the vitality of the idea of 'good chiefs' as embodied in what we termed above the minority roll-call of honour of those traditional leaders who had resisted incorporation into the state's machinery of oppression. However, there can be little doubt that, as far as South Africa is concerned, the idea of mixed government remains highly problematic.

A first point is quite simply that the majority of chiefs have been so deeply corrupted by the Bantu Authorities system that a reversal of rural despotism will require a determined political commitment to alternative forms of rural government. Given an overall shortage of revenues and other capacities, it may well be a temptation at both national and provincial level to prioritise urban spending (and historically, of course, African urban areas under apartheid were

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deliberately underresourced in order to deter the flow of population to the towns), and to fall back upon the crutch of chiefly authority to restore political quiescence in the far flung parts of South Africa. However, so many of the members of the chieftaincy are tainted by their past that popular feeling may require their removal if the institution is to be revitalised. That may prove troubling to a government which is trying to shift from the struggle for liberation to the politics of development.

A second point, developed from the first, is that if a traditional leadership is to contribute to democracy ('African' or otherwise), it would seem unlikely to be able to do so if it remains central to the allocation of extremely scarce rural resources. It was suggested above that, in essence, it was the relative powerlessness of chiefs that nurtured their influence in the earlier years of Union; correspondingly, it was the power they wielded and the access to resources which they acquired under the Bantu Authorities system which guaranteed their corruption. Furthermore, as the development of CONTRALESA demonstrates, formal commitment to the politics of liberation is in itself no guarantee of chiefly commitment to democracy. Indeed, the relative ease with which certain prominent Transkei chiefs have managed to switch allegiance from the TNIP to the ANC (and in one case into the cabinet) suggests that chiefs' familiarity with the state will encourage an opportunistic accommodation to the new order. What chief now will not decry the damage that apartheid inflicted upon the integrity of traditional leadership? The implication of all this is that any shift from authoritarian to more democratic forms of rural local government in the former bantustans will require controlling mechanisms and practices so that whoever allocates resources (and the evidence is that civics no less than chiefs can easily become corrupted) is rendered accountable to the community. This is more easily said than done, but perhaps the potential balance (or is it tension?) between the elected and *ex-officio* chiefly members of local governments, as prescribed by the new constitution, may be as good a starting point as any. Whatever the case, it also implies that a democratisation of rural life will require an external support system (in terms of community development projects and the more vigorous and equitable provision of basic services) to expand options for ordinary villagers and to reduce their dependence upon a single source of local power.

Thirdly, no review of the prospects for mixed government can exclude reference to the violent struggle for control of provincial power in Kwazulu-Natal. This enormously complicated conflict, which assumes the proportion of a civil war between Buthelezi's IFP and the ANC, deserves separate treatment. Suffice it to say here that the determination of the ANC to write into the final constitution the provision that chiefs everywhere will be paid by central, and not by provincial, government, is being correctly interpreted, and bitterly resisted, by the IFP as a deliberate attempt to erode its power base. Yet a recent draft of a new provincial

constitution of Kwazulu-Natal, which would inter alia pave the way for an unelected provincial government (M&G 14-21 September 1995), would seem to indicate the IFP's preference to retreat from, rather than to advance towards, any form of democracy.

Finally, mention must be made of the continuing role that the new constitution envisages for traditional leaders as custodians of indigenous laws and customs. At the time of writing (late 1995) no single House has been established at provincial or national level, so that we are reduced to speculation. However, what is already clear is that while the new legal order is clearly going to take customary law more seriously, the latter is simultaneously going to be subject to the new Bill of Rights:

By implicitly recognizing customary law, and at the same time prohibiting gender discrimination, the Constitution has brought about a head-on confrontation between two opposed cultures - admittedly a confrontation that has long been gathering force. Because African culture is pervaded by the principle of patriarchy (the authority accorded all senior males), the gender equality clause now threatens a thorough-going purge of customary law. And it is tempting to dramatize this threat, to portray human rights as the harbinger of western neo-imperialism and to represent customary law as the shield of an endangered indigenous culture. Such imagery encourages one to think that conflicts will be overwhelming and irreconcilable; but, if a working relationship between conflicting forms is to be found, a less polemical approach must be found (Bennett 1994).

This means, in practice, that much responsibility for change in areas where reform of the law is needed will fall upon legislators, who will in turn be required to consult with the appropriate bodies of traditional leaders. However, given widespread reservations amongst traditional leaders about non-sexism and gender equality, this advisory role may well prove to be both highly conservative and problematic.

If South Africa is to achieve mixed government, it would seem that it will only do so via a fundamental transformation of the chieftaincy.

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