

THE NEW RELEVANCE OF TRADITIONAL AUTHORITIES IN AFRICA

THE CONFERENCE; MAJOR THEMES;
REFLECTIONS ON CHIEFTAINCY IN AFRICA;
FUTURE DIRECTIONS

Donald I. Ray and
E. Adriaan B. van Rouveroy van Nieuwaal

The Ghana Conference

Genesis of this special issue

This special issue of the *Journal of Legal Pluralism* grew out of the Conference on the Contribution of Traditional Authority to Development, Democracy, Human Rights and Environmental Protection: Strategies for Africa. When we planned this conference the current opportunities for democratic participation and good governance in most African states seemed unprecedented, yet the possibilities of failure were starkly looming on the horizon. We argued that a significant part of the reason for this lay in the overlooked relationships between the contemporary African state and traditional authority i.e., chiefs. There has often been a disjuncture between state structures and civil society in much of Africa. While the view is widely held that Africa's democratization should draw from its cultural traditions, little has been done to analyze systematically the extent to which this does or can occur. We argued that traditional authority acted as a unique linkage between the contemporary state and civil society in many African countries in the areas of democratization, development, human rights (including gender) and environmental protection, but that these linkages were often unrecognized, ignored, or misunderstood. Herein lay the threat of exacerbation of that

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disjuncture.

Therefore we proposed this conference as the first step in establishing a research network that would systematically examine these questions on an Africa-wide basis. The research network would focus especially on state-civil society relations with regard to democratization, development and the environment. This had not been done before. The conference drew together researchers and some practitioners who had established the nature of points of contact between state and civil society with regard to law, administration, electoral systems (and other aspects of democratization), local government, environment, undesirable social practices, gender, labour and other aspects of development. Participants were asked to make comparisons between the experiences of a number of African countries, including Benin, Botswana, Burkina Faso, Cameroon, Chad, Ghana, Lesotho, Mali, Morocco, Niger, Nigeria, Senegal, South Africa, Tanzania, Togo, and Zimbabwe as well as two Caribbean countries in which there was a significant presence of African neo-traditional authority in their Maroon communities, Jamaica and Suriname. Through five days of intensive work, the participants were asked to distil the lessons to be drawn on the aforementioned questions into a summary and to draw up a list of specific policy proposals detailing the ways in which traditional authority has or could contribute to democratization, development, human rights and environmental protection strategies in Africa and by implication the Afro-Caribbean. These proposals are presented within the papers of this special issue. The object is that they may act as guidelines to policy makers throughout Africa and the Afro-Caribbean and in international agencies on how to overcome the threatened increasing disjuncture.

Acknowledgements

After more than two years of intensive organizing and fund raising on three continents, the conference took place in Ghana. Core funders were the Netherlands Minister for Cooperation, Drs. J. Pronk, the Netherlands Embassy to Ghana,¹ the African Studies Centre, Leiden (ASC), the Leids Universiteits Fonds, Leiden, the International Development Research Centre (IDRC, Ottawa, Canada),² The University of Calgary, Canada (including the Department of

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Political Science,³ the University Grants Committee of Research Services, the International Centre's Division of International Development⁴ with the Canadian International Development Agency's Centre of Excellence funding, and the Faculty of Social Sciences), the Canadian High Commission to Ghana, the Institute of African Studies of the University of Ghana, and the Chieftaincy Division of the Office of the President in the Ghana Government. The Asantehene, the Catholic Bishop of Kumasi, the National House of Chiefs, the Ashanti Regional House of Chiefs, and the Kumasi Traditional Council also graciously supported the conference activities. On behalf of the conference co-organizers and all the participants we wish to express our most sincere appreciation to the funders for their support of the conference and the emerging applied research network on traditional authority.

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Division.

³ Special recognition and thanks must be extended to the then Head, Dr. R. Gibbins, for approving the seed funds and the necessary on-going support.

⁴ Special thanks are due to Dr. M. Brinkerhoff, Director.

⁵ Unfortunately these Proceedings are out of stock as they were published in a limited edition.

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performed miracles of organization as the conference drew near and during the conference itself: we are very grateful to them. The Manager and staff of the university's Guest Restaurant provided delicious meals to participants that were literally fit for kings.

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The publication of this large special issue has involved greater costs than could normally be met by the *Journal of Legal Pluralism*. It would have been difficult to proceed without a subvention from the ASC, arranged through the good offices of the Director, Mrs. Dr. G. Hesseling.

The conference programme

The Opening Ceremony, held on September 2, 1994 in the National Theatre in Accra, was attended by over 200 chiefs, scholars and policymakers. Opening addresses and comments were given by the Rt. Hon. Mr. Justice D.F. Annan, Speaker of the Parliament; Nana Akuoko Sarpong, Agogohene and Presidential Advisor on Chieftaincy Matters; Nana Odeneho Oduro Numapau II, Essumehene and President of the National House of Chiefs, Mrs. Drs. L. van Schaik-Zaaier on behalf of Drs. J. Pronk, Minister for Cooperation and Development, the Netherlands; Mr. W. Gusen, First Secretary for the Canadian High Commissioner; Prof. Dr. Nana K. Arhin Brempong, Conference Co-organizer, Nifahene of Barekese, and then Director of the Institute of African Studies, University of Ghana; Prof. Dr. E.A.B. van Rouveroy van Nieuwaal, Conference Co-organizer, Faculty of Law and African Studies Centre, University of Leiden; and Prof. Dr. D.I. Ray, Conference Co-organizer, Department of Political Science, The University of Calgary, Canada. The first panel session was held in the afternoon at the Institute of African Studies, as were the subsequent three panels on the following two days. The Canadian High Commission kindly

hosted a reception on the evening of September 3.

On September 4 the participants travelled to Kumasi, the traditional capital of the Asante kingdom, and now also the site of the National House of Chiefs and the Ashanti Regional House of Chiefs. In the evening the Catholic Bishop of Kumasi (and noted anthropologist) the Rt. Rev. Dr. P. Sarpong, and his staff, entertained the conference participants with a banquet and traditional cultural display. The following morning, the participants observed the impressive full court of the Asantehene (the Asante king), Otumfuo Opoku Ware II, constituted in this case as the Kumasi Traditional Council, in action: it gave judgment in a case. Following the official welcome given by the President of the National House of Chiefs, Odeneho Oduro Numapau II, regular panels were held at the National House of Chiefs that afternoon and the next morning. In this concluding session, the participants discussed and agreed upon the need for an applied research network. After lunch, the participants embarked on a most memorable six-hour tour of sites sacred in Asante history as well as two paramount chiefs' palaces. This tour was graciously organized by the President of the National House of Chiefs, Nana Odeneho Oduro Numapau II, Paramount Chief of Essumeja and co-hosted in Kokofu by the Kokofuhene, Barima Kofi Adu II, the Paramount Chief of Kokofu.

Papers and participants

The papers focused on the contribution of chiefs to development, democracy, civil society, gender relations, social custom, land tenure and environmental protection. African development issues were examined for answers to the question what could chiefs, the often underestimated partner in African politics, contribute to such issues, amongst others, as the development of civil society in Ghana, reforestation in Zimbabwe, environmental protection in the Sahel, the mediation of ethnic conflicts, the entrenchment of democracy in post-apartheid South Africa, the development of gender issues in Ghana by the restoration of Queenmothers as community leaders, and the promotion of civic peace in Tanzania. Discussions were enhanced by the critiques of Ghanaian chiefs of both genders who were present at all panels: this new form of participatory research⁶ certainly gave the scholars new insights. Chiefs present included the following members of the National House of Chiefs: Odeneho Oduro Numapau II, Nana Akuoko Sarpong, Nana Adu Gyamfi Ampem II Acherensua, Togbe Dagadu VII, Nene Klagbordjor Animle V, Dr. Puo-ure Puobe Chiir VII, Oseadeeyo Addo Dankwa III, Awulae Amankra Panyin IV, Odeneho Gyapong Ababio, Nana Kwame Nkyi XI; as well

⁶ For an excellent example of the theory and practice of this approach see Ryan 1995.

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as two queenmothers, Mama Adokuwa-Asigble IV of Tefle and Nana Serwaah Nyarko, Offinsohemaa.⁷

The papers dealt with the above mentioned 16 African countries and two Latin American countries which have aspects of transplanted West African, particularly Ghanaian traditional authority. Those who gave papers came from four continents and seventeen countries: Austria, Botswana, Burkina Faso, Benin, Cameroon, Canada, Czech Republic, Germany, Ghana, Netherlands, Nigeria, South Africa, Suriname, United Kingdom, Tanzania, USA and Zimbabwe.

The significance of the conference is more fully developed elsewhere in the introduction and is demonstrated by the policy recommendations contained in the papers of this special issue. At this point it can be stated that the conference participants drew the conclusions that African development strategies should incorporate traditional authorities, and that furthermore such strategies should pay more attention to creating mechanisms that would facilitate chiefs' constructive participation. Growing out of these conclusions, conference participants agreed that Phase II of the Chiefs Project, i.e., the Traditional Authority Applied Research Network (TAARN) was needed. Prof. Ray agreed to coordinate the continued development of this international applied research network. Negotiations with the partner countries and institutions as well as with the funders have been taking place. Prof. van Rouveroy van Nieuwaal will organize a follow-up (bilingual) international conference in 1997 in francophone West Africa.

Major Themes of this Volume

The papers selected⁸ and revised for this special issue⁹ address major areas in

⁷ We are grateful to Mr G.B.L. Siilo for checking the titles and names of the participating chiefs.

⁸ For a variety of reasons, not all the conference papers were available for inclusion in this publication. Of the 28 papers delivered at the conference, 16 have been selected for this volume. We also wish to express our regret that our Ghanaian conference co-organizer, Nana Prof. Dr. K. Arhin Brempong has been unable to join in co-editing this volume because of the press of his other responsibilities. He has been appointed Chairman of Ghana's National Commission on Culture.

⁹ We wish to express our most heartfelt thanks and appreciation to Dr. Gordon Woodman, Editor-in-Chief of the *Journal of Legal Pluralism*, for his meticulous

which traditional authorities have or could have contributed to development including gender questions, democracy, and environmental protection. At one point we were tempted to separate out these three themes and so group the authors. However, we quickly became convinced that nearly all the authors had already interwoven two or even three of these themes into their arguments. Accordingly we present the authors in the following order which reflects the underlying logic of the conference as well as the debate concerning the new relevance of traditional authority in Africa.

General studies

Van Rouveroy van Nieuwaal examines the relationship between the state and chiefs in Africa from the perspective of the question: "Are chiefs mere puppets?" He surveys the basis of chiefly power in the contemporary state, most notably Togo, as well as a number of the strategies and options that chiefs have adopted in their dealings with the state. He argues that in the light of the comparative failure of the African state, undermined as it has been by greedy and violent political elites within and without Africa, to bring about democracy and development, chieftaincy has re-emerged as an important vehicle for more or less authentic indigenous political expression. Moreover, he argues, contrary to what some assert, chieftaincy is not totally controlled by those elites that seem to have a stranglehold on states' structures. Whatever those elites may profess with regard to 'good governance' and democratization, they very often have not practised these values. Chiefs have different bases of power from that of the state. Indeed we may note that if Hyden (1980) writes of a peasantry uncaptured by the East African state, van Rouveroy van Nieuwaal and Ray (from their different perspectives) suggest that it may be possible to think of African chiefs as, if not totally uncaptured, at least in possession of great room for manoeuvre, or as 'chefs de manoeuvre'. Indeed van Rouveroy van Nieuwaal argues that the "chiefs' space for manoeuvre, and especially the strategies that they use in that space, [is] much larger than the formal constitutional and administrative legal models lead [one] to suspect."

This manoeuvring capability is ascribed to what van Rouveroy van Nieuwaal sees as 'the chiefs' double basis of power.' From tradition chiefs derive their sacred and other customary powers. From the modern state chiefs attempt to capture resources in the forms of development projects, taxes, etc. Yet this double basis of power also creates a double-sided dependence between chiefs and the state.

work and excellent assistance given to us in the preparation of this special issue.

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Chiefs are 'encapsulated'¹⁰ to varying degrees by the state through its legislation and resources, yet the state also borrows some legitimacy from the chiefs.

Von Trotha examines the nature of the institution of African chieftaincy with particular reference to its future. He argues that chieftaincy can be part of the democratic renewal in Africa but only if chieftaincy and the post-colonial state (which he characterizes as post-colonial despotism) are both transformed. The colonial and post-colonial despotisms transformed African chieftaincy into their intermediary, administrative institution.¹¹ Now this 'administrative chieftaincy' should be turned into 'civil chieftaincy' which would be "more just, responsive and responsible" just as the new type of central government would be.

After initially noting the diversity of types of chieftaincy in pre-colonial Africa, and the diversity of chiefs' responses to the imposition of colonialism, von Trotha argues that the various European colonial powers sought to impose a more homogeneous pattern of chieftaincy by utilizing chiefs as part of the process of building the new colonial states. The post-colonial state has continued this strategy of trying to use chiefs in an 'administrative chieftaincy', characterized by the principles of 'devolution', 'hierarchy' and 'administrative district'.

Von Trotha argues that the reliance of the colonial and post-colonial states upon chiefs to act as instruments of intermediary administration between those state forms and local people, demonstrates the 'weakness' of the 'organizational power' of those state forms. It reflects the lack of integration of state and society in many African countries which is expressed as a series of antagonistic dualities: rulers and ruled, capital city and hinterland, urban centers and peasants. In many countries administrative chieftaincy as an intermediary order has become a 'double gate-keeper' between the state and the local people, restricting and guiding access of one to the other in matters of state action, clientelist politics, national and local culture, state and local legal orders, the individual and economic matters.

Chiefs continue to draw their strengths from their local roots: they defend local culture and social order as well as being 'at the center of local political life.' Yet chiefs continue to be subject to the pressures of the state, von Trotha argues, especially pressures to encourage local people to conform to the state's administrative policies, to accept the regime's politics, and to recognize the state

¹⁰ For an earlier discussion of encapsulation, see Ray 1986.

¹¹ See Woodman (1988) for an example of what happens to 'customary' law in such a case.

as legitimate.

Yet despite all of these pressures and various attempts to write off chieftaincy, von Trotha (like van Rouveroy van Nieuwaal, and Ray) argues that chieftaincy is likely to be part of the process of democratic renewal of African states. Neither chiefs nor the state are going to disappear in the near future, but they do need to be transformed together.

Von Trotha provisionally suggests eight principles by which the transformation of administrative chieftaincy into civil chieftaincy may be evaluated. First the state has to recognize the *de facto* legal pluralism and to institutionalize the chiefs' independent legal system, except for such cases as communal violence. Von Trotha acknowledges that this local justice may 'perpetuate the injustices' of the local order but believes that local autonomy in this matter is to be preferred. Consequently, his second principle is one of local autonomy: local problems must be solved locally. As long as injustice is not challenged locally, outside intervention should be very cautious. Local people have to determine their own interests, he argues.

Third, the legal pluralism of state and local systems of dispute resolution must be recognized as leading to a healthy legal competition that urbanization will not undermine. The francophone West African city is not a unitary melting pot that obliterates local custom and ethnicity. Rather the city is composed of many separate areas in which people from different localities seek out those from their former locality and implement anew and in a new place their own local justice systems complete with chiefs. Again, were this legal pluralism represented by the chiefs' courts to be recognized by the state, people would have more choice as to how to solve their disputes.

The fourth and fifth principles are those of agency and competence. Chiefs not only have to be guardians of tradition but they must also be active agents of the present and future by promoting the well-being of the community. This is what really validates chieftaincy, not mere calls for 'self-folklorization'. Von Trotha contends that, while chieftaincy selection is based on ascriptive norms as a means of limiting access to office, and it therefore appears that chieftaincy cannot be reconciled with democratization, this is not really so. Chieftaincy depended in the past on competent leadership. Incompetent leaders could be removed. Now, he argues, the kind of competencies that chiefs must have is changing: chiefs have to deal with "the requirements of modern economic, administrative and political challenges and tasks".

Sixth, chieftaincy must become 'civil chieftaincy.' When chiefs speak of representing 'their people,' they do not mean that they represent them in the sense

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that one individual may represent another, but rather they refer to representation as the embodiment of sacred traditions. Yet the political and economic changes associated with colonialism, the post-colonial state (e.g., administrative chieftaincy) and the market economy (capitalism) have undermined this claim to representation by chiefs. Instead chiefs must adopt a new basis for conflict resolution and representation. Von Trotha argues that under civil chieftaincy the chief becomes a forum where issues can be debated and resolved and local interests can be articulated, and a defender of local interests in discussions with the central government. Again as in the legal situation, civil chieftaincy must be free from central government control but subject to local control (see Ray in this volume, discussing Ghana).

Yet, von Trotha argues, seventh: "Civil chieftaincy cannot adequately represent the local order without being constitutionally integrated on the level of the central state." He suggests a number of different mechanisms, including second chambers devoted to chiefs (see Ray, and Bank and Southall, both in this volume). The value of such arrangements is that they could include ways of formally incorporating the diversity of local interests and the 'resources of legitimacy' that chiefs represent.

Is von Trotha then arguing for an unrestrained chieftaincy? On the contrary, his eighth principle is that mechanisms should be developed to ensure that chiefs as well as central governments will be subject to the democratic practice of checks and balances, because these must exist for both centers of power:

Any way to a future and promising African polity must give chieftaincy a prominent place in the political institutions and the political process, and integrate chieftaincy in a new system of checks and balances which restrains the abuse of power of both the national political actors as well as chiefs and their allies.

Skalník argues that democracy in African states needs to be enhanced by incorporating mechanisms that allow the indigenous political institutions and values to be expressed and to have effect within the imported, i.e., colonially-introduced, state. Like Daneel and Geschiere, he considers the sacred aspect of traditional politics. According to Skalník African notions of politics are more inclusive of social and religious elements than current European-derived notions of politics. Skalník draws a parallel between politics as understood in medieval Europe and pre-colonial and present day 'indigenous' Africa. In doing so, he seems to be arguing that both are pre-colonial in the sense of being different from the ideas of politics brought into Africa by the European colonial powers. The latter were after all industrially-based capitalist powers bringing in the post-feudal but capitalist-based state. We might extend his argument by suggesting that in this

context pre-colonial would also be pre-capitalist. Skalník seems to us to raise the point that there has been a sharp break in terms of the values by which such concepts of politics are defined. This break is not only a matter of chronology, such as the differences between pre-colonial, colonial and post-colonial politics, but also arises because different sets of values are used to define concepts that are nominally the same but are in fact rooted in different sets of social, economic and political relationships. Thus, like Ray and van Rouveroy van Nieuwaal, Skalník sees 'indigenous' authority (or chieftaincy politics) as being in co-existence, if not always peaceful co-existence, with the politics of the post-colonial state. Skalník points out that the Konkomba of northern Ghana have sought to establish their 'own sovereignty' as distinct from that of their Nanumba overlords or the post-colonial state of Ghana. Skalník, like Ray, notes that not all Ghanaians see sovereignty as being held only by one structure, i.e., the post-colonial state.

Using the Nanun example in Ghana, Skalník argues that indigenous African concepts of power were based not on the European, winner-take-all style of domination, but rather involved mutual restraints and consultation between chiefs and the people. Hence, he argues, African indigenous institutions were genuinely democratic but did not necessarily conform to the European conceptions of representative democracy. Skalník further argues that, given the violations of democracy that have occurred in many African states, the incorporation of 'chiefs,' i.e., African indigenous institutions, may well act to increase 'democratic processes' that would have been otherwise not well understood components of an alien institution, the 'state' introduced by European colonisers.

Skalník does not deal explicitly with the question of what to do when some (or even many) Africans no longer accept a particular 'chieftaincy'. Such situations occurred in 1981 and 1994 when the Konkombas rejected their Nanumba overlords. We draw the reader's attention to the similarities in the points made by both Skalník and Ray to the effect that the introduction of the colonial and post-colonial states in Ghana created the idea of the citizen who is free to live anywhere within the state's boundaries. Ray would argue that this aspect of the person-as-citizen of Ghana for the Konkombas came into conflict with their obligations as persons-as-subjects to the chiefs in Nanun. This tension between 'citizen' and 'subject' continues in various African countries.

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North-West Africa

We turn now to the studies which focus primarily on traditional authorities in particular regions, or even localities, and we take the region of North-West Africa first. Hatt examines the development of chiefly authority amongst the Berbers in the Western High Atlas Mountains of Morocco over the course of a century from 1890 to 1990. His North African case study has implications for the debate as to what constitutes 'traditional' and how such mechanisms work. During the colonial period the colonized, Hatt argues, were not passive subjects of imperial change, but rather responded creatively by using 'tradition' to maintain considerable autonomy in their lives. Indeed, even after independence these Berbers used a similar strategy towards the post-colonial state.

Hatt's analysis of the traditional council explores the relationship between traditional authority and democratization. People wanted responsive political leaders who could settle local problems as well as dealing with the outside state. Perhaps this might be interpreted as harkening to the expression of dual sovereignty. Hatt writes that "the chief often has to 'translate' perceptions of politics from the local conceptual framework into the official one and vice versa." He elaborates on this duality:

The practical authority of chiefs lies in their ability to mediate between two political systems which operate in two completely different styles and through different political idioms - one bureaucratic and hierarchical and concerned with the implementation of policies mainly generated elsewhere, and the other personalistic and bound up in the subtle politics of reputation in the tribal sphere.

One might see chiefs as a mechanism for articulating two differently-based political systems. We could also conceptualize the chiefs as the actualization in the political sphere of the articulation of modes of production.

Hatt's description of the range of political and administrative work, much of it being local government, carried out by the traditional leaders shows a degree of reliance by the Moroccan post-colonial state on 'traditional authority' that was rejected by the Ghanaian post-colonial state, but which had earlier been adopted by the British colonial state in Ghana, especially in the 1920-1950 period. The reasons for this difference between the two African post-colonial states need to be explored. One could start by speculating that in the case of Morocco the lack of political rooting, of claims to sovereignty, or of potential power (either military or through a long history of hierarchical political structure) on the part of the Berber chiefs of the case study meant that they were not perceived by the colonial or

post-colonial states in Morocco as realistic potential competitors for power. In Ghana, by way of contrast, chiefs could, and still can, make claims to political legitimacy, authority, and even sovereignty on grounds that predate the colonial and post-colonial states in terms of time, and can make these claims on the basis not only of politics but also of religion (see Ray in this volume).

Labatut examines traditional authority in the Sahel from the perspective of environmental protection. He analyzes the position and role of peasant communities in the struggle against the desertification process in the Sahel. He begins with a critique of the knowledge paradigms¹² conventionally used in analyzing and responding to the desertification process in the Sahel. He finds these ineffective because they totally or largely exclude traditional authority in peasant communities from the processes of research and policy design. Instead he advocates a paradigm of participatory research and environmental development in which the rural populace participates through its indigenous structures and non-governmental organizations (NGOs) as civil society but also in cooperation with the state. The traditional knowledge of the peasant needs to be complemented by the efforts of the researcher and the state.

West Africa

Ray examines power and legitimacy in chief-state relations, drawing especially on the Ghana experience. Since chiefs derive their claims to legitimacy, authority and indeed even sovereignty from their pre-colonial roots, while the contemporary African state is a creation of, and a successor to, the imposed colonial state, it is argued that chiefs form a parallel power to the post-colonial state¹³ and that this has raised a number of political, developmental and conceptual problems that have not been adequately addressed, let alone resolved.

First the concepts of sovereignty, legitimacy and authority are examined with regard to the possibility of their division between chiefs and the state in Ghana. Ray suggests that the greatest theoretical objections will be raised with regard to the division of sovereignty. However, he argues that, as long as the final power aspect of sovereignty is preserved, the division of sovereignty (and indeed of

¹² Labatut arrives, independently, at very similar conclusions on paradigms to those of Chilcote (1994). Labatut shows us the usefulness of such theoretical clarifications to environmental policy analysis.

¹³ For a perceptive discussion of the concept of the 'post-colonial state', see Konings 1984.

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other, subordinate concepts) is not necessarily inimical to contemporary post-colonial states in Africa. Divisions of sovereignty between chiefs and the state are not manifestations of a new form of federalism, but are responses to the different pattern of state-creation in African countries such as Ghana. Ray uses constitutional and legislative instruments in order to analyze three measures of the state-chief dynamic. He examines the question of the state's ability to control chiefly status by means of recognition, of control over chiefly regalia and of chiefs' participation in party politics. He suggests that the state's desire to intervene in these aspects of chieftaincy politics is related to the ambiguities of sovereignty, legitimacy, authority and power in African post-colonial states containing chiefs. Finally, Ray examines six Ghanaian chieftaincy disputes in terms of the implications for peace, security and development of the division of sovereignty, legitimacy, authority and power between chiefs and the post-colonial state. Ray notes that it is important that the paradox whereby people are simultaneously citizens of the state and subjects of the chiefs be resolved at the levels of both conceptualization and policy implementation. Otherwise peace, order and good government, preconditions of development, may not be achieved.

Nugent examines the nature and history of chieftaincy in what is now the Volta Region of Ghana during the periods of the colonial state and post-colonial state. Nugent, differing sharply from Skalík, argues that chieftaincy in the Volta Region was "essentially fabricated" by the German and British colonial regimes. What often started out as useful village institutions were, he argues, transformed into elaborate structures of indirect rule for the benefit of the colonial regimes, who were interested in control, and the various Ghana governments, who were interested in control and 'development'. In order to achieve the goal of greater control, the British colonial state amalgamated forty-four divisional-level chieftaincies into four new 'States' headed by paramount chiefs. These 'amalgamations' were often made in disregard of historical relationships or even ethnic and linguistic differences. The problems generated have continued into the present. The post-colonial state has, he argues, been unwilling to address decisively this legacy of colonialism.

Nugent, having thus provided an overview of certain aspects of chief-state relations in the Volta Region during this early period, uses a number of anecdotes to argue that chiefs were often ineffective instruments of development for their areas during the 1970s although they retained residual influence in some cases. He then goes on to examine various options for chieftaincy's roles in Ghana. Nugent concludes that, while chieftaincy in the Volta Region is "arguably indispensable at the village level, the rest of the structure may be too rickety to support anything more elaborate." His point is bound to generate considerable debate.

Brydon examines female traditional office-holders in the seven-village Avatime

paramountcy of the Volta Region in Ghana. Having noted the 'contested histories' of chieftaincy institutions, practices and conceptualization in the Volta Region, she focuses on certain aspects of the history of male and female 'chieftaincy' in Avatime during the colonial and post-colonial periods. Brydon argues that Avatime women chiefs appear to have lost a considerable part of their power and influence since pre-colonial times. They now appear to be most active as mediators or judges in 'women's affairs'.

With regard to development, Brydon argues that by the 1970s male chiefs, not women chiefs, played significant roles in mobilizing labour and occupying positions on the Town Development Committees. The pattern continued into the 1990s. Brydon suggests that Avatime women chiefs have been concerned with moral, ethical and domestic issues rather than with development projects such as clinics or agricultural cooperatives. As she notes: "Being a woman and a traditional officeholder are not necessary, let alone, sufficient conditions for being a community leader in contemporary Ghanaian society." One might raise the further question of why there appears to be such a difference between Brydon's Avatime case study and the estimation of Stoeltje (1995) and the 31 December Women's Movement that across southern Ghana queenmothers (or women chiefs) have been and can be active participants in the development process,¹⁴ but this is beyond the question that Brydon set out to examine.

Ouedraogo surveys the relations between the Moose chiefs of the Kaya Region, Burkina Faso and the colonial and post-colonial states. The French colonial regime, Ouedraogo argues, found chiefs to be useful tools in administering the colony. While some post-colonial governments, most notably the first elected government (1960-66) and Captain Thomas Sankara's revolutionary government (1983-87) outlawed many aspects of Moose chieftaincy, and in fact attempted to abolish the institution of chieftaincy as a whole, Moose chiefs survived all these attempts.

Other governments, such as those of the period 1980-83 and Captain Compaore's governments (both military and civilian) from 1987 onwards, have found it necessary to restore Moose chieftaincy. Moose chiefs need the recognition of the state in order to be able to survive as an institution. The state, Ouedraogo argues, needs the support of the Moose chiefs in order to mobilize their rural people in times of crisis, such as after Compaore's coup d'état, or when electoral support is

¹⁴ Stoeltje (1995) provides an example, drawn from the Ashanti Region, of an Asante queenmother who was actively involved in the politics of development. Unfortunately Stoeltje (1995) was not available for this volume. See Stoeltje (n.d.).

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needed, or for development. He raises several questions as to the stability and endurance of this alliance between traditional political power and modern power. Such an alliance is, he suggests, necessary at this juncture if all are to participate in the state.

West African values in the Caribbean

The reader might wonder why the papers of Pakosie and Zips on the Maroons of Suriname and Jamaica were included in this selection since at first glance neither paper might seem to fit into any of the major themes. We would argue that both papers fit directly and indirectly into the major theme of democratization and traditional authority. By examining the strategies by which the Maroons, as manifestations of transplanted and transformed African-rooted traditional authority, and the South American colonial and post-colonial states have related to each other, Pakosie and Zips analyze the expression of African pre-colonial political values in new contexts. Where such political values are freely expressed by those in a community, these values enter the democratic political culture of a community.

Furthermore, Pakosie and Zips allow the reader to address indirectly the question of how 'neo-traditional' authority, to use the term used by van Rouveroy van Nieuwaal, may promote a greater degree of local peace, a possible pre-condition for increased development and democracy (vide Ray). Both papers raise the question of what happened to the vibrant traditional, pre-colonial political cultures of West Africa when fragments of their peoples were forcibly transported to the Americas and processed by the European mechanisms of the slave trade and colonialism.

In Africa pre-colonial political leaders were made into 'chiefs' by European colonialism and its colonial state structures, a process continued in various ways by the African successor, post-colonial states. Yet these African chiefs continue to claim legitimacy from pre-colonially rooted values. So too, as Pakosie and Zips note, the 'traditional' or 'neo-traditional' authorities or leaders of Maroon societies in Suriname and Jamaica were created on the basis of African political values brought over by the African ancestors, and then affected by interaction with the colonial and post-colonial states. Indeed, as Zips notes for the case of the Jamaican Maroons, they even claimed the status of a state government for their traditional leadership. In both cases a type of what Ray terms 'divided sovereignty' has emerged, posing political, administrative and legal challenges to the contemporary or post-colonial states of Suriname and Jamaica, just as chiefs now pose challenges to African states. Zips' perceptive theoretical and empirical insights on these questions are of special interest. He argues that the Jamaican

post-colonial state should recognize the Kromanti law of the Maroon traditional authorities in order to accomplish two goals. First this recognition would promote reconciliation and peace in the Maroon areas of Jamaica. Second, and following from the first point, such recognition would promote local peace also by allowing Kromanti law and traditional authority to be the vehicle for settling local (i.e., Maroon) disputes.

In short, Pakosie and Zips call the reader's attention to the following: (a) that forms of African-based chieftaincy exist both in Africa and in certain parts of the Americas, and (b) that apt comparisons of chieftaincy in, and between the two continents may prove fruitful for scholars, policy-makers, chiefs and people on both sides of the Atlantic.

West-Central Africa

Geschiere examines the religious aspect of traditional authority from the perspective of witchcraft in Cameroon.¹⁵ Witchcraft has emerged as a political problem capable of capturing the state's attention in the forest societies of south and east Cameroon, even to the extent of people pressuring the state to become involved in witchcraft trials and to send 'convicted' witches to jail. Yet, despite the presence of witchcraft (or occult powers) in the religions and political conceptualizations of the Grasslands societies of the Northwest and West provinces, witchcraft has not emerged as a political problem in any similar degree to that in the forest societies. Geschiere questions this apparent paradox.

Geschiere compares the conceptualization of witchcraft in both sets of Cameroonian societies and finds considerable similarities at the ideological level. The crucial difference may lie, he argues, in the differing nature of chieftaincy in the two types of societies. Chieftaincy in the forest societies is an artificial creation of the colonial powers who created chiefs as political allies in order to impose the colonial state and its capitalist market values. Here 'chiefs' were able to achieve some political autonomy by manipulating ideas about the occult in order to reinforce their political and economic power. 'Chiefs' claimed to be powerful witches who would use their occult powers to destroy their challengers. This, combined with other factors, has led to a breakdown in public trust, and hence people have successfully appealed to the Cameroonian post-colonial state to hunt and jail 'witches' in order to promote public protection. (See also Geschiere

¹⁵ The author would have preferred to use the term 'occult' rather than the loaded term but he finds that since the debate already was dominated by the term 'witchcraft,' he is compelled to use it.

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1995.)

By contrast, Geschiere argues, in the Grasslands chieftaincy is firmly rooted in the pre-colonial period and this continues to affect its relationship to the occult (or certain religious powers). Here chiefs, while they have occult powers, are supposed to use their power to hunt down 'witches' in order to protect the public. Hence it seems to us, the author presents us with an argument on the continuing importance of understanding the religious expression of traditional authority. Development can be enhanced or disrupted by the religious aspect of traditional authority depending on how it is formulated from one society to another.

Konings examines chieftaincy as a mechanism of labour control for the promotion of capitalist development. He analyzes a case study drawn from a large tea estate in the Ndu chieftaincy of the Wimbum located in the Bamenda Grassfields of Cameroon during the period from the 1950s to 1993.

In this case, Konings demonstrates that chieftaincy has continued to play an important, but not a monopoly role in reconciling the needs of capital, in this case of the tea estates management for access to and control of labour, with the non-capitalist values of tradition. He examines this first in the context of management's desire to use women as permanent regular labour and the opposition by the chief based on his support for traditional economic relationships. The tea estate wished the women to work for it on the basis of capitalist economic relations, while the chief, embodying traditional, non-capitalist values did not wish the women of his chieftaincy to be diverted from serving the productive and reproductive needs of the men. The resolution of this conflict had to wait until capitalist values had further penetrated the non-capitalist culture of Ndu chieftaincy.

Konings also points out that chieftaincy is capable of transforming both itself and traditional values, as it eventually did when it 'allowed' the tea estate to employ women on a permanent basis, thus opening up economic alternatives for women that were not directly controlled by their fathers or husbands. Thus Konings makes important contributions to the debates around gender, articulation theory and capitalist development.

The second question he examines revolves around the role of chieftaincy as a substitute for trade unions in bids to control labour by the estate management and their allies in the colonial and post-colonial states. Here he finds a more complex situation than some of the earlier writers on trade unions and the mines in Ghana or Zambia found, and than some of the articulation theorists would have expected. Factors such as the strength of the roots of chieftaincy, the penetration of capitalist economic relationships into non-capitalist societies, and labour migration

are keys to explaining the continuing vitality of this chieftaincy in acting as a mechanism of last resort in resolving labour management disputes on this plantation and protecting and transforming tradition.

Southern Africa

Daneel's paper provides a major case study of how traditional political and religious authorities in Zimbabwe have successfully contributed to environmental protection, contrasting with but also complementing the other paper which focuses primarily on environmental protection, that of Labatut. He examines the processes and factors that have led Zimbabwe's traditional custodians of the land to carry out major environmental reforms in Masvingo Province since the mid-1980s. Their main organization has been the Association of Zimbabwean Traditional Ecologists (AZTREC). Allied organizations are the Zimbabwean Institute of Religious Research and Ecological Conservation (ZIRRCO) and the Association of African Earthkeeping Churches (AAEC).

The author analyses the historical and cultural context in which Shona chiefs' and spirit mediums' powers and duties derived from a particular religious-political relationship that they have with their ancestors, the environment and the creator-god, Mwari. Hence the legitimacy of chiefs and spirit mediums depends on their guiding the community in the treatment of the land, the forest and the water in such a way as to ensure that a correct relationship with the divine is maintained. Rainfall for the crops depends upon this relationship. Thus political power is intertwined with the environment.

Symbolism can be used and organized in such a way that it becomes a tool, an engineering instrument for development based on that religious syncretism which Daneel describes as the joining of two different kinds of models in a way that still allows them to interact and thus address modern problems. This paper shows the resource qualities of culture and especially religion at the level of spirit mediums (known elsewhere as earth priests) and village heads. The author shows that there is a significant potential in culture to reorganize communities at the grassroots level for successful development projects.

Finally, Daneel argues that the war of liberation against colonialism was fought by ZANU allied with the spirit mediums, the latter seeking to regain lost lands. After independence in 1980, the chiefs and spirit mediums came to recognize that a new war, the war for the trees, was needed. Gradually a traditional religious and political conceptualization for the defence of the environment was elaborated. AZTREC, the AAEC and ZIRRCO were created as the organizational framework for this marriage of environmentalism and traditional authority.

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AZTREC and the AAEC have planted two million trees in one thousand woodlots. Water resources and sacred groves are also being protected by this alliance. Some sacred groves may also be turned into traditional wildlife sanctuaries. Daneel thus draws our attention to the importance of the religious basis of traditional authority as a basis for mobilizing people to protect the environment.

Quinlan applies the concept of chieftaincy to the analysis of collective identity and the state in Lesotho. He examines the 'dynamics of collective identity' with regard to the relationship between the state and national identity in Lesotho as manifested by the institution of 'chieftainship' which he finds to be ambiguous in its relationship to the state.

Chieftainship, he writes, has been used by the Lesotho state to sustain a national or state identity. Thus, as with the others in this volume, Quinlan finds that chieftaincy is not an 'archaic institution' but a 'modern' one. This lies at the roots of the crisis facing the contemporary state.

In Lesotho there have been two different discourses concerning nationalism. The politicians and bureaucrats of the state wanted a national identity that would promote the continued existence of their state structures. The people based their national identity on their 'struggle to maintain homes in Lesotho'. This difference is reflected in the differing conceptualizations of chieftaincy. The people see chieftaincy as replicating the patriarchal family, while the state sees chieftaincy as being like the state with territory and political power.¹⁶ Quinlan explores how these differing visions of chieftaincy and the state have been manipulated by the heirs of the founding king, the colonial state and the post-colonial state.

He notes the relationship between the state and the historical creation of local identity from local chieftainship. As over time, from the pre-colonial to the colonial to the post-colonial periods, the state became defined apart from chieftaincy, so chieftainship became an expression of national identity that was being made distinct from the state. Thus the state became less able to depend on chieftaincy to bolster the state's claims to a legitimacy based on a chiefly national identity. Quinlan argues that, in order to make chiefs conform to the administrative needs of the colonial state, that state undermined the pre-colonial ideological roots of chieftaincy. In turn this set the stage for a political identity crisis for the successor post-colonial state. As the colonial state took over the national arena, formerly the preserve of chiefs, chieftaincy was refocussed onto the locality.

¹⁶ Certainly Quinlan's conceptualization adds a fresh perspective from which to examine the phenomena and conceptualization of divided sovereignty: cf. Ray n.d., in this volume.

External economic and political pressures on Lesotho, such as arose from labour migration to South Africa and the necessity of dealing with apartheid South Africa, tended to undermine a national identity focused exclusively on the Basotho/Lesotho post-colonial state. Quinlan sees two major consequences for Basotho nationalism. First, there was created a "national identity...disassembled from the state". Second, the enthusiasm for independence was curtailed by the state's failure from lack of resources to bring about development. This decline in the state's legitimacy, combined with the previous refocussing of political legitimacy onto a locally-created identity for people as embodied in chiefs, created a situation in which the state faced a population who did not participate in a common state-focused cultural hegemony.

Quinlan argues that the political and ideological tensions are also reflected in the economic sphere. While the state and its external directors such as Western governments and donor agencies encourage a policy of cattle-raising by the wealthy few for the market, the many poor raise cattle to sustain themselves and their way of life. In the midst of such differing interests, chiefs are likely to become a focal point for struggle between the emerging classes. The wealthy backed by the state will contest with poor peasants operating within a chiefly framework of political authority, identity and legitimacy over cattle and land management practices.

He concludes by arguing that in Lesotho there appears to exist 'a dual structure of government' of chiefs and the state. Chieftainship is not a 'solid rampart' of Basotho culture, but rather a continually changing institution being redefined by the people to meet their needs.

Bank and Southall examine the relationship between state and traditional leaders in South Africa from two perspectives. First, they lead us through the historical development of that relationship from the late 1800s to 1995, and second they examine the ways in which traditional leaders have contributed and might contribute to the democratization of the South African state, particularly with regard to local government.

Bank and Southall note that as the British colonial state was imposed, and subsequently transformed into the apartheid state, the autonomy and legitimacy of chiefs was undermined and increased powers were given to 'headmen' in attempts to reduce the military and political threat emanating from chieftaincies as pre-colonial competitors. In short, traditional authorities at the level of chiefs were largely denied administrative functions and powers by the colonial state between 1910-1948 except for their right to administer communal land tenure and to arbitrate civil customary cases. Chiefs survived this period with a firm hold on the agricultural means to enrichment, and hence influence, and with their reputations

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largely unbesmirched by colonial administration. The apartheid state then sought to build upon this public respect by giving chiefs more powers than they had had previously or at least powers configured in very different ways. As Bank and Southall argue, in these bantustans the apartheid government sought to create quasi-democratic structures administered by chiefs but ultimately controlled by the apartheid government. Chiefs were thus used to control the rural populace and economy for the maintenance of apartheid. While, they argue, most chiefs ended up as collaborators of apartheid, and thus discredited in the eyes of most South Africans, a 'minority roll of honour' for chiefs opposed to apartheid does exist.

It was from some of these chiefs that the Congress of Traditional Leaders of South Africa (CONTRALESAs) emerged in 1987 at the very end of the apartheid era. CONTRALESAs's attempt to establish chiefs as effective peace-makers, as full and active participants in national and local government and as an independent political force did not bear full fruit. Nevertheless chiefs did emerge from the negotiations that ended apartheid with the recognition in the interim constitution that they were to have a limited ex-officio role in local government, the authority to adjudicate certain matters under traditional law, and seats in the largely advisory houses of traditional leaders.

Several conceptual and policy concerns emerge from this history and throw light on the prospects for a democratic South Africa with regard to the relationship between traditional authority and the state. Bank and Southall question Sklar's recent argument for 'mixed government', i.e. an active participatory role for chiefs in the politics of the state such as to enhance the democratic capabilities of African countries. First, they argue there is the problem that, since so many chiefs were seen to be active collaborators with apartheid, the legitimacy of chiefs has been much reduced in the eyes of many South Africans. Second, they suggest that the record of chiefs in administering bantustan resources again raises questions of accountability in democratic, post-apartheid South Africa. Third, Bank and Southall see a conflict brewing between the patriarchal values of customary law and the new concept of gender equality under the interim constitution. This casts doubts on the capacity of chiefs to administer, codify and develop customary law. Part of the solution, Bank and Southall argue, may lie in divorcing chiefs from the constitutional state's power. This reminds us of the provisions of Ghana's Third and Fourth Republican constitutions (Ray in this volume). In short, new ways of conceptualizing the role of traditional leaders in post-apartheid South Africa are needed to enhance the processes of democratization.

Reflections on Chieftaincy in Africa¹⁷

The state in Africa has undergone in the last hundred years an enormous development. African constitutional history shows us a great variety of forms of government varying from historical forms such as segmentary systems, small autonomous entities, feudal kingdoms, empires etc, through different versions of colonial states, political movements inspired by the struggle for independence in the fifties and sixties, and some kinds of democracies with multi-party systems modeled on the Westminster or Elysée constitution, to one-party systems, military regimes and finally dictatorships. The African state has, as any other state, influenced in some way the socio-political and economic position of the African citizen, but always from a perspective of different ideological structures.

Undeniably, chieftaincy in Africa too has undergone profound transformation during the last century. The position of traditional chiefs, contrary to expectation, has been strengthened in the last decades. An example is the position of chiefs in South Africa, who within the context of their Union, the Conference of Traditional Leaders of South Africa (CONTRALESA), made their voice heard, as has the Transkei Traditional Leaders Association (TTLA) and other groups of chiefs in South Africa (Bekker 1993: 200). But, although chieftaincy in Africa came back into the spotlight of interest during the recent changes within the African political orders known as democratization,¹⁸ on the other hand one cannot deny that this phenomenon came under heavy fire during colonial domination and still is today as the case of the Bangwaketse paramount chief, Kgosi Seepapitso, a famous paramount chief in Botswana, shows us.¹⁹

The renewed debate focusing on the revival of chieftaincy has to be considered as a warning against too static an interpretation of the concepts of chieftaincy (Oomen 1996: 5). What then is 'traditional' in this context? Many publications demonstrate that chieftaincy has sometimes nothing to do any more with 'tradition' and has been reduced to what has been called 'a neo-traditional chieftaincy', or as Geschiere (in this volume) puts it: "it is clear that in Africa the 'traditionality' of these authorities [i.e., chiefs] is highly variable". An illustrative example is the answer of Togbui Atsu Gléglédzi I, *chef de canton* of Agou Nyivé,

¹⁷ This section is based largely upon van Rouveroy van Nieuwaal's research and earlier publications on chieftaincy.

¹⁸ For the South African situation, see Bekker 1993; McIntosh 1991.

¹⁹ *The Botswana Guardian*, December 16, 1994, p. 1/2

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a small community in the neighbourhood of the Togolese capital Lomé.²⁰

In 1981 he succeeded Togbui Déni Sedzro III, a member of the royal lineage in that locality who was destooled after he fell out of favour with the Eyadéma regime. Gléglédzi I, an agronomist and faithful member of Eyadéma's Party, the *Rassemblement du Peuple Togolais*, answered proudly, almost angrily, our question "What then, sir, is a traditional chief?": "From the very moment the government has nominated me as chief, I am a chief, as traditional as any other chief in Togo" (van Rouveroy van Nieuwaal 1995a, n.d.a).

The position of chiefs in many African states reflects the hybrid nature of the phenomenon 'chief'. It is never easy to assign them to different categories or to clearly define their political and administrative tasks as distinct from the socio-religious and judicial roles they play in African societies. Moreover the intermediary role chiefs by definition have fulfilled since colonial rule also resists classification. This variety of positions and roles has made the phenomenon of chieftaincy into a bigger enigma than it ever was in pre-colonial times. The present-day chief in Africa has become a syncretic leader. By this we mean to say that he is a socio-political phenomenon which forges a synthesis between antagonistic forces stemming from different state models, bureaucracies and world views. We often, for the sake of convenience, characterize these as 'modern' and 'traditional', but the value of such concepts is very limited, as von Benda-Beckmann concluded years ago (1979). A key feature of syncretism is constant change, which forces the chief to use two different languages belonging to the radically different worlds in which he has been received since colonial oppression. This situation also creates a certain duality in the chief's behaviour.

The following example will illustrate this.

In early December 1987, van Rouveroy van Nieuwaal gave the highest traditional leader of the Têm from Sokodé (North-Togo) a lift as we were both heading for the executive meeting of the *Union Nationale des Chefs Traditionnels du Togo*²¹ which we

²⁰ Who died on February 22, 1996.

²¹ It has frequently changed its name since its foundation in 1968. As of 1992-1993 it is known as the *Association des Chefs Traditionnels du Togo*. See *Atopani Express*, weekly journal in Togo, no. 262, 24-30 March 1996, p. 2; and van Rouveroy van Nieuwaal n.d.a

were to attend. Once we got to the meeting place, the chief mysteriously retreated to take off his Western clothes, reappearing several hours later, traditionally dressed as paramount chief of the Têm. The puzzling nature of this event lay not so much in the way he withdrew from our observation, but in the fact that one of the people at the meeting whispered that the chief had ritually washed himself in seclusion, to protect himself from the evil influences of the alien environment he found himself in. Politely, but resolutely, any further information was refused.

Syncretism has the disadvantage that the chief's conduct cannot be easily predicted. The advantage, however, is that this conduct reflects the entire social situation and cannot be identified with just one characteristic of it. Syncretic leadership stimulates some form of neo-traditionalism. It has its origin in the need of both the rural population and the government to dispose of a go-between (Fallers 1955: 290; Miller 1968: 184-187). The extent to which the chief is able to integrate the two political systems contributes considerably to the continued existence of this type of leadership (Skinner 1968: 200). Syncretism requires of the chief an ability to constantly adapt to change and it sometimes even forces him to subtly but profanely swap his traditional garment for a European outfit, or vice-versa as in the example above. But syncretism also enables the chief to mobilize a wide variety of resources and instruments of power to attain certain goals that may be in his own interest or that of the people he represents. In some countries chiefs rank among the most powerful men in the land who often have direct access to the complex network of compliant authorities extending into the public administration, the army command, the clergy and the business world (Konings n.d.; Vaughn 1988; von Trotha 1995). By his syncretic conduct the chief gains access to economic resources and politico-legal means of power from separate worlds. This may include acquiring academic titles and engaging in many activities on an economic level. He is likewise ensured access to more traditional areas such as dispute settlement, allocation of land rights, elimination of witches or exactly the opposite, the *practice* of witchcraft. By analogy with other authors (Beck 1989; Hesseling 1992; Spittler 1980) the chief can be described as exerting his power 'in the shadow of the state law and administration'. Finally, he is assured of a ceremonial role in various local rituals. This role is well-defined and is embedded in local cosmological views, norms and values which are respected by everyone in the particular society.²² This is, of course, one of the specific

²² These norms may even be laid down in a governmentally recognized customary constitution, as in the case of the Royaume Genyi (or: Guin) in Glidji, led by the Bebe Foli in southern Togo (Gayibor 1990).

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aspects of a chief acting in the interest of government control and bureaucratic exercise of power - a role imposed on him since the colonial era by the government. The chief is also a figure who aims in many cases to protect the welfare of his land and people. He can achieve this through a widely divergent system of possibilities, such as 'authoritative support of law observance',²³ dispute settlement, or even the offering of prayers to the ancestors for rain and fertility. Fulfilling these duties according to prevailing standards ensures the chief's authority and respect amongst the people. It is this diversity of positions and roles of chiefs on a political level which von Trotha (in this volume) summarizes as "From administrative to legal and civil chieftainship..." We suggest that the chief's socio-religious duties may be added to this list.

Concepts of power and authority are at the centre of any study of 'state' and 'chief'. Upon closer examination it proves rather difficult to make an analytical distinction between the two concepts. Power is commonly conceived as the possibility of a person to impose their will on others using physical or psychological violence²⁴ or the threat of it. Authority by contrast is seen to be based on the shared conviction of the subjects that the state authority imposes its will in a legitimate way. Blau (1963: 307 ff.) shows that no clear-cut distinction between these concepts can be made; it is a question of a sliding scale. Violence is used in the implementation of both power and authority, not only to subjugate citizens but also to provide them collectively with goods and services. The very fact that the authoritative ruler provides them with goods and services makes subjects believe that his imposition of will over them and their reduction to obedience is founded on a legitimate base.

Within this context the relationship of 'modern authority' to 'traditional authority' is fundamental. If we consider this relation as a kind of 'zero-sum game',²⁵ expansion of the power of the one actor will always reduce the power of the

²³ A well-known concept from Dutch-Indonesian customary (adat) law, meaning that by his presence at a legal transaction a chief in fact ratifies this transaction; cf. Ter Haar 1939.

²⁴ Claessen relates the concept of 'authority' to that of 'power', by interpreting the latter as the possibility to limit other people's behavioural strategies (Claessen, 1988: 4). In real terms it is hardly practicable to put a restraint on a person's behavioural strategies for a long, continuous period of time. For this reason, both the chief and the state authorities try to make their followers do what they approve of. If this aim is not achieved, political crisis may arise.

²⁵ See for an extended exposé van Rouveroy van Nieuwaal n.d.b.

other.²⁶ This is not the case, of course, when it comes to power in different fields. This may be interpreted in a strictly territorial sense - state jurisdiction stops at the state's borders - and a functional sense - the church's authority is limited to religious matters, at least in those cases where state and church are separated. However, we assume that between both actors the fields of authority can be demarcated and that there are areas where the two actors' areas of authority overlap. In practice, this demarcation is not always easy. It also opens the door for the people to play the actors off against each other. Thus, the common opinion among jurists, at least in Togo, is that chiefs have been formally excluded from *official* administration of justice since the colonial era, and can only operate as 'conciliators'. But legal practice reveals that justiciables do not embrace this point of view and that they resort to chiefs for dispute settlement in a wide variety of fields.

Returning to the zero-sum relationship we may assume that it does not apply in areas where the two actors' authorities do not overlap. For example, the government does not even aspire to the religious tasks performed by the chiefs. For the zero-sum context it is the field of political (and judicial) authority over individuals that captures our interest. Chiefs can base themselves on legitimate structures to act as representatives of their people. Within an area, smaller than the state, they serve as guardians of the public interest and providers of collective goods, as administrators and judges.

Chief and state are profit-maximizing actors who constantly strive to expand or to at least stabilize their power. They will resist any attacks made on it. This is the key issue of the zero-sum theory. As a consequence, they will compete in order to perpetuate or consolidate their position of power. But should neither actor be out to perpetuate or consolidate his position of power and both be seeking a status quo, there is no competition. Their relationship becomes well-balanced and stable. As soon as one of them tries to expand his power, however, it will be at the expense of the other. This means that if both 'power-seekers' operate within the same domain, the expansion of one's power will always pose a threat to the other's position.

Nevertheless, competition is not the only factor that 'binds' the two actors together. They also need each other for various other things: they are mutually dependent. The government depends on the chief for the implementation of its policy, as well as also for the flow of specific information about the local

²⁶ Not all authors share this opinion. Bienen, for example, argues that both local and national government can be strengthened simultaneously and that "...power should not be conceived as existing in a zero-sum game" (Bienen 1970: 120).

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community over which the chief exerts authority. This specific information is used by the government in the implementation of its policy. On the other hand, the chief has been dependent on the government since colonial times for the recognition of his legitimacy as the representative of his people, as well as for obtaining economic or political favours to satisfy the people he represents. This situation of mutual dependence is at least as important as the competitive atmosphere between the two actors. It does, however, entail the danger that one of them may use his indispensability to consolidate his position and to achieve certain goals.²⁷

In conclusion we may reiterate that the relationship between the chief and the modern government is based on two characteristics: competition and mutual dependence. The two actors aim to expand their power, and this is always at the expense of the other actor, so that they are in competition. But they also need each other to exercise their power, and in this they are mutually dependent.

Although chief and state are mutually dependent, they would prefer to do without one another. This situation of having to put up with one another on the one hand, but actually wishing it were otherwise, is an uneasy one. It entails a constant fear that the 'opponent' will strengthen his position while one will oneself be incapable of taking action, and will see one's position weakened. Furthermore, each actor will think that even if the other does not act, taking action himself may still prove advantageous. For in so doing, he will be one step ahead of his counterpart and will have built a stronger position. The parties cannot guarantee each other that they will leave their mutual relationship as it is. It is best therefore to go for the action-option. Since this is a less than optimal situation both would be better off leaving the relationship as it stands, to enjoy the benefits of stability. But because of fear and ignorance of the other's behaviour, they will take pre-emptive action. In essence, both actors are each other's prisoners. In the original prisoner's dilemma, the `game` is only played once. Given the absence of a second round, the actors do not have to reckon with the consequences for a next meeting with their opponent. But such is not the case in the relationship between chiefs and

²⁷ The Togolese head of state, Eyadéma, for example, backing his candidate for the highest traditional position in the Têm society (northern Togo) in 1986, was obliged to confer upon this candidate the title "chef supérieur" (paramount chief), thus deviating from his policy at that time of granting chiefs at best the hierarchically lower-ranking title "chef de canton". A "chef supérieur" not only has a larger group of followers than a mere "chef de canton", but is also entitled to a considerably higher monthly state allowance. (Van Rouveroy van Nieuwaal n.d.a.)

government. In real terms the actors do come into contact and must constantly consider the other in their actions. The frequency of such contacts increases with the diminution in territorial distance between the two actors. Thus, we noticed that in Lomé, but also in other provincial capitals in Togo, chiefs and local administrators engaged in almost day-to-day contact, whereas contacts between administrators and chiefs in more remote places were considerably less frequent. In any event, all such successive contacts, dictated by their mutual dependence, put a restraint on the intensity of the power struggle. They will have to face each other in the following round, so improvement of the position of the one must not so disadvantage the other that the latter will sabotage the next round. Their interaction thus proves a very delicate matter. Legal studies in this field seem to give only a limited insight into this subtle game of inferences, anticipations and playing the ball back and forth between chief and state administrator. The same holds for political science studies, dominated as they are by the notion that whatever is coming from the centre can effectively command, control and penetrate this entire civil society.

The above can be summarized as follows. The chief finds himself in a sort of zero-sum relationship together with the state and its institutions. The two actors struggle for power and respect along with their followers, but because of factors which bind them together, and the fact that they must operate within the same territory, they are obliged to negotiate with each other. The chief must enter into these negotiations with the state and its institutions in order not to lose his position within the constitutional and administrative framework. But the chief also seems made for this role as he has, from the colonial era onwards, increasingly come to fulfill an intermediary role.

Chieftaincy's protests and resistance to the state

As Rosenberg (1990-1991) shows, long before the 'scramble for Africa' started, Africans resisted vehemently the imposition of European domination. It is rather surprising, however, that the author does not mention at all African resistance to the imposition of state law (Burman & Harrell Bond 1979). Van Rouveroy van Nieuwaal (n.d.c.) demonstrates that protest and resistance of Africans against legal innovation shows a great variety from family law and land tenure law to administrative law. From these examples it is quite obvious that not only illiterate peasants, as one of the most important partners in African civil society, but also chiefs (who are, however, nearly always peasants too in Africa) develop a wide range of strategies to subvert new law. There is an epistemological assumption that people only accept new law when it is in their interest to do so. This assump-

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tion is not only true of the imposition of colonial law, but is still valid today.²⁸

These examples extracted from different fields of law illustrate that Africans have refused categorically to accept new law, or at least have transformed that law in directions beneficial to their own interests. This resistance went so far that we may conclude concerning Francophone Africa that legally the French *mission civilisatrice* was almost a disaster. Particularly the example of land law shows us that all the efforts of the French colonial legislator came to nothing.

The ways Africans have resisted legal innovation, however, differ, depending on the social status, the abilities and the estimation of benefit or loss of the various participants in their struggle to keep up their own legal identity. Where the struggle for control and management is between the bureaucrats and the traditional elites, one would expect to find either forms of active resistance or collaboration. But the vast majority of peasants with nothing to lose from the change have mostly tended to adopt strategies of passive resistance. Here we enter the area what Scott so brilliantly describes as 'hidden transcripts' of the powerless people such as the peasantry, slaves, untouchables, laborers and prisoners. Scott refers to "the ideological resistance of subordinate groups through their use of anonymity and ambiguity in their gossip, folktales, songs, jokes and theatre" (1990: on flap). But one should realize that one of the most basic characteristics of this resistance is the

absence of any institutional frameworks for channelling this resistance, or even where they do exist, they are poorly developed and transient due to the nature of these manifestations, they are elusive and difficult to combat. (Fisiy 1990: 15)

²⁸ In a paper dealing with the 1974 land law reforms in Cameroon, Fisiy says:

If the ultimate goal of the land law reform was to enhance certainty of title, the peasants may not readily see the need for such an exercise. Their titles over land have always been ascertainable. They do not even need to register the land since their traditional principles provide enough security of tenure. Even if they wanted to use the lands deeds to raise finances, they do not have the appropriate networks for negotiating such loans. Consequently, there is no justification or motivation to go through a cumbersome land registration process with no apparent gains. As a result, the peasants will simply tell you that 'the law is not for them' (Fisiy, 1990: 10).

What may be true for the unorganized peasantry, is however not always valid for the traditional elite as the case of the 'stubborn chief', a village head in southern Togo during the last years of colonial administration in Togo reveals (van Rouveroy van Nieuwaal 1994). This case demonstrates without any doubt that in colonial times many struggles erupted for control over authority and power between the colonial bureaucrats and the local chieftaincy (Groff 1991). This chief developed with mastery a strategy of withdrawal and attack to persist in his ideas about the *ordre public* of his own society towards those of the French administration. Finally this strategy turned out to be successful without his being forced to articulate a strategy that violated his own legal rules. But in that case it is not only the interpretation of a legal concept such as the *ordre public* which is used between both actors as a resource in their struggle for power, but the chief too plays off his knowledge of the antagonistic struggle between two different political parties, let alone his foreknowledge of the governmental policy towards chieftaincy.

Since many states in Africa have not always been successful in achieving some form of legislative hegemony over local communities, members of the state elite have sought to co-opt, through bureaucratization, sometimes simply by using physical force, the institution of chieftaincy in order to take advantage of the control it confers over people and resources to capture local communities. A good example is for instance Eyadéma's successful attempt to add the Togolese chiefs, united in 1968 in the National Union of Chiefs, as a 'marching wing' to his Party, the *Rassemblement du Peuple Togolais*.

But have chiefs degenerated as a result of such measures and other hegemonic projects of the state, to mere puppets, to a folkloristic fringe of the state? The organizers of the conference greatly doubt this. Among many other examples, we would select another illustration of chieftaincy's resistance towards state intervention, in this case the intervention of the district officer:

This concerns the resistance of a muslim leader to the district officer in Sansanné-Mango, a small town in northern Togo. The district officer had a bad relationship with the muslim leader, who was also a member of one of the two leading royal lineages that provide the paramount chieftaincy of the ruling ethnic group. Unaware of that fact, the district officer sitting in his air-conditioned Land Rover which he had parked in front of the mosque at the moment the Imam left after the Friday prayers, he asked the Imam in front of all the believers: "Who nominated you as Imam?" Not only was the question a brutal insult to the muslim leader personally, but the local religious elite considered his act to be an intolerable interference in local religious affairs.

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The Imam, who indeed became the paramount chief in 1978 in Sansanné-Mango, did not answer, but informed the head of state, Eyadéma, who immediately reacted by dismissing the district officer from office.

This is one of many other examples²⁹ in which chiefs have successfully used state intervention to get rid of antagonistic political counterparts, although we admit that some other examples show just the opposite: in these cases it is the new state political elite who eliminate chiefs by state intervention, or incorporate them in such a machiavellian way that they are mere puppets and instruments of the public administration.

We would like to summarize the foregoing as follows. The African chief has since the colonial era become involved in a process of political and administrative unification. In this process he is supported by the principle of devolution introduced by the colonial government, by the firm structure of a hierarchical organisation of traditional chiefs, and by an increasingly refined system of governmental administration. These aspects together have led to the development of an 'administrative chieftaincy' (Beck 1989; von Trotha in this volume), still bearing the characteristics of intermediarity which were so clearly pronounced during the revolutionary period of the so-called 'democratization process'. One of the most important characteristics of the chief has continued to be his active involvement in judicial matters in spite of efforts by both the colonial and post-colonial governments to reduce and marginalize this traditional position.

Apart from this, the respect and regard given to the chief were seriously endangered by a despotic politicalization of the chief's role. For in political matters the chief became a part of an oppressive system of political control, whereas on the other hand his administrative duties in name of the state eventually gave him the place of a low-placed office holder. In the long run this process may seriously affect his role as representative of a local cosmological order even to the extent of the chief becoming mere folklore, just one of the attractions travel agencies put on their program for western tourists. In this process, the chief's intermediary position (of power), acquired in the colonial era, will eventually be undermined as well.

Future directions

Looking back on the conference, and having one last opportunity at this point in

²⁹ See for another example van Rouveroy van Nieuwaal 1992: 27-28.

this volume to review what was done, we agree that much has been accomplished: we prefer to let others be the judge of this collective effort. We are, however, also mindful of the prayer that enjoins us to reflect not only on what was done but what we have left undone. Rather than indulge in caveats and mea culpas, we would like to point out some future directions for needed research.

Many of the papers noted, and indeed analyzed, case studies of the ways in which chieftaincy could or did mobilize people at the grassroots, especially for developmental and democratic projects that the state did not have the capacity to conduct by itself. When traditional authority is mobilized under the right conditions, extensive environmental projects become possible. When traditional authority breaks down, violence may erupt, disrupting people's lives and certainly any chances of development for some time in the area. More work, including case studies, is needed to understand what policies and implementation mechanisms are needed to facilitate the enhancement of chieftaincy's contribution to peace, order, good government and development. More collaborative projects, such as that of Leiden and South Africa, and applied research, such as TAARN, are needed: the sheer size of this continental project is far beyond any one institution.

Africa is still a rural continent but urbanization is rapidly proceeding. Urban areas now often have large numbers of newcomers from other parts of the country who do not owe traditional allegiance to the local chiefs. Indeed the same is sometimes true in rural areas as internal migrations take place. Voluntary and involuntary (i.e., refugee) migrations across state borders compound these problems in many countries. What are the chiefs to do when faced with these migrants? Can chiefs attempt to exercise their 'jurisdiction' now that they have become encapsulated by the post-colonial states of Africa? These are thorny policy questions that are seldom formally addressed by the state and yet need to be addressed urgently if negative consequences are to be avoided or minimized and if the positive (i.e., developmental) aspects of chieftaincy are to be maximized.

We are convinced that such policies can only be created when more precise and more developed concepts dealing with such topics as the state, government, administration, sovereignty, and legitimacy have been further elaborated. Concepts need to be applied to and to be the product of the realities of Africa.

More needs to be known also concerning the relationship between (neo)traditional authorities and NGOs engaged in 'development'. Chiefs have often been actively involved in national and local political arenas, engaging with the socio-political and economic actors of civil society. But new actors and new models on the local and regional scene (NGOs, for instance) both foreign and domestic, offering chiefs a new range of status symbols in new contexts (the media, for instance), and carrying new social, economic and political resources to different levels, have

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presented new questions for the traditional authorities as to how to act towards them. The implications for democratization, land administration, dispute settlement, human rights, environment and development are at stake.

In conclusion we hope that the content of this special issue is a starting point for further research and discussion on the state and chiefs in Africa in their mutual and complex relationships, which reflect questions of power and legitimacy, and raise questions about whom exactly they represent and for what purposes.

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