

FORCED MARRIAGE: THE CO-EXISTENCE OF TRADITIONAL AND MODERN INSTITUTIONS OF GOVERNANCE IN SOUTH AFRICA

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Abstract

The advent of democracy in 1994 marked a new epoch in the eventful history of South Africa. Not only did it change the balances of scale between black and white in political leadership, it also created a platform for the black majority to express their views on how they should be governed. During this transformation phase, the future of the institution of traditional leadership polarized the nation. As some argued that traditional leaders are obsolete and have no place in a democracy, others vehemently argued that the institution should be revamped and retained to facilitate rural development. Subsequently, the debate shifted from whether or not traditional leaders should be retained to how they should function. Using data collected under Jozini Municipality in northern KwaZulu-Natal, previous work done by Babara Oomen in Northern Province (now Limpopo) and recommendations made at a Conference on Traditional Leadership held in Durban, this article argues that the co-existence of traditional and modern institutions of leadership in post-apartheid South Africa is a forced marriage entered into on pragmatic grounds. The article argues that global events, developments in Africa, and the reality on the ground in South Africa, combined, forcing the ANC leadership to embrace traditional leaders.

Introduction

The controversial decision taken by the South African political leadership after apartheid to have a hybrid system whereby traditional and democratically elected leaders operate side-by-side took the world by surprise. But in fact this decision was predicated on the eventful history of this country. There was a realization by the new leadership that both colonialism and apartheid retained traditional leaders when contemplating governance. Colonial and apartheid agents co-opted traditional leaders in their resolve to weaken Africans and to sustain their hegemony in the country. The Bantu Authorities Act (BAA) of 1951 and the Promotion of Self-Government Act of 1959 were part of this very broad strategy. These Acts aimed at turning all chiefs in the Bantustans into despotic ruthless

agents and dividing the Africans into small and manageable ethnic groups (Meli 1988: 136). This was generally referred to as “divide and rule.”

However, some of the chiefs resisted this form of centralization to retain local autonomy. *Inkosi* Albert Luthuli, the chief of *Amakholwa* clan located at KwaDukuza in Stanger was one of those resisters (Luthuli 1962). When asked to resign from the African National Congress (ANC) on the grounds that he was a chief and had to take orders from Pretoria, he relinquished his position as chief instead. Chiefs like him became a catalyst for change and a focus for cultural identity in the evidently challenging contests of local, national, and trans-national politics (White and Lindstrom 1997). This issue of resisters and collaborators continued unabated for years. In his review of White and Lindstrom’s work, Scaglione (1999:429-430) uses an example from Fiji and makes the point that chiefs ‘have become potent symbols of what is indigenous and traditional as against what is foreign and modern.’ The same debate prevailed in South Africa as it still does today.

Our submission in this article is that the black political leadership that assumed power after the historic 1994 elections was forced, in part, by this history to retain traditional leaders when planning the future of South Africa. Although the government that was formed was a Government of National Unity (GNU), which included the former ruling party (the National Party or NP), Africans in that government felt duty-bound to use their majority to push for the recognition of the institution of traditional leadership due to the exogenous and endogenous factors discussed below. We argue in the article that the co-existence of traditional and modern institutions of leadership in post-apartheid South Africa was not pre-meditated as such; it was a form of marriage entered into for reasons of political expediency. Forging a new South Africa without simultaneously

bringing traditional leaders on board would have been tantamount to nurturing a tree which had no roots. Thus, although Govan Mbeki had once written in 1964 that to force chieftainship on the people at independence ‘is not liberation but enslavement,’ (Mbeki 1964:47) he was forced to change his mind in the 1990s due to a confluence of factors.

This was necessitated by the fact that it became evident that in the case of South Africa it was the masses (especially those with rural roots) who defended the institution of traditional leadership and called for its continued existence. Therefore, although authors like Ntsebeza (1999 and 2006) argue that both the Traditional and Governance Framework Act (No. 41 of 2003) and the Communal Land Rights Act of 2003 are inconsistent with the National Constitution, these Acts had to be passed in order to bring traditional leaders on board in the new governance system. Bentley (2005) shared Ntsebeza’s view that bringing traditional leaders in a democracy is undemocratic. She argued that ‘the accommodation of claims of traditional leadership and the recognition of traditional communities in South Africa pose a great challenge to democracy and human rights’ (Bentley 2005:49). However, she, like Ntsebeza, remained silent on the context in which such accommodation took place. Our article fills this void.

In structuring this article we were constantly mindful of the fact that unless a nation knows its past, it cannot build its future on a solid foundation. We were also guided by the philosophy that no group or individual anywhere in the world can operate in a vacuum and thus cannot ignore the changes that take place in the surroundings. Therefore, although the debates about the future role and function of traditional leaders in South Africa intensified in the early 1990s in the build-up to the first all-inclusive general elections, we begin our discussion by looking at global events which predate the 1990s

but which influenced the minds of the South African political leadership when they had to decide the fate of traditional leaders. This is very important because most of the black leadership who eventually formed part of the GNU in 1994 lived in exile and they knew what was happening in the international arena on issues of group rights and indigenous groups.

We then take a look at how different African countries dealt with the institution of traditional leadership at independence as a source of reference. However, under no circumstances should we be misconstrued to mean that all African countries responded in the same manner to the question of traditional leadership. We are acutely aware of the fact that even today they respond intuitively without following any uniform pattern. Most importantly, former British and French colonies in Africa reacted differently to the issue of traditional leadership. Although South Africa only became a democratic country in 1994, we still believe that she had a lot to learn from other African countries which obtained independence much earlier. Most importantly in this regard, we address the issue of African leaders who vowed to destroy the institution of traditional leadership but later revived it, albeit with different functions and powers. We argue that in a way the institution of traditional leadership proved to be indispensable for various reasons. Lastly, we look at practical reasons in South Africa as to why the ANC-led GNU embraced the institution of traditional leadership. Here, we discuss the nature of the South African population and use data from previous studies and recently collected data to argue that even if the ANC had wanted to destroy the institution of traditional leadership, this goal would have been impossible to achieve in South Africa due to the endogenous factors discussed below.

Global events and their impact on South Africa

It would be erroneous to assume that traditional leadership is only an African affair. Govan Mbeki reminded us as follows: ‘if Africans have had chiefs, it was because all human societies have had them at one stage or another’ (Mbeki 1964:47). Countries such as Australia, New Zealand – and even some located in South America – had traditional leadership institutions in one form or the other. But the way in which these institutions have operated over time and the manner in which they continue to operate today varies from country to country and from time to time. Sometimes what countries do is determined by global developments such as changing views on minority groups, the position of indigenous groups in society, general group rights, etc. When these events take place at a global level, they inevitably impact significantly on what happens locally. This is the broader context that should be kept in mind when trying to analyse and perhaps understand the changing position of the ANC leadership regarding the place, role and function of the institution of traditional leadership in a democratic South Africa.

Oomen (2005) traces at least some of these global developments back to the 1960s and continues with her analysis up to the 1990s. She strongly argues that the events that took place in South Africa around the issue of traditional leaders cannot in anyway be clearly understood without first looking at global developments. In her view, during the 1960s the world saw a number of changes in the political arena. Included in this list were: the fragmentation of the nation-state, the embracing of culture and the applauding of group rights. She argues that these developments directly or indirectly triggered the

resurgence of traditional leadership institutions in different parts of the world as individual groups claimed recognition. Oomen summarises her views by stating that in the 1960s the nation-state:

had fallen out of favour, its powers contested by a variety of sub- and supranational polities. One way in which this scramble for legitimacy in an increasing interconnected globalising world was played out was through the culture card: reviving traditional systems of governance...., granting “group rights” to indigenous peoples or “first nations” (Oomen 2005:3-4).

During the 1990s the legal recognition of cultural diversity, which was already in place in the 1960s, became one of the characteristic features of the politics of the day. The South African leadership had to consider these group rights and think about the best ways to cater for their pressing needs in the new political dispensation. Reviving the institution of traditional leadership became a better option in part because traditional leaders were used to providing leadership in their respective areas of jurisdiction under the old order. It was assumed that they would assist the new government in bringing services to the rural communities quicker than the central government would do.

Another key global development associated with changes in the institution of traditional leadership and local governance is the fall of the Berlin Wall in 1989. To be sure, this incident took place in Germany. However, it led to the formation of ethnic polities, thus promoting localised forms of governance. It did not come as a surprise when the ANC leadership embraced the idea of having three spheres of government (national, provincial and local). It was hoped that there would be a space for traditional leaders in local governance structures run by the local municipalities.

According to Oomen (2005), although the fragmentation of the nation-state was a world-wide phenomenon, for unspecified reasons it was particularly apparent in Sub-Saharan Africa. As these global developments took place, some African leaders resolved

to do self-introspection. They wanted to know how to move forward in the midst of these developments. In the process, both African philosophers and those tasked to formulate and implement policy argued in favour of indigenous solutions to African problems (Ayttey 1992). In a way, it was “going back to the roots” for them although they would obviously have to modify some of their practices to suit the prevailing circumstances at the time.

What made the 1990s so important is the fact that the period became the United Nations International Decade of the World’s Indigenous People. In the process, a number of small ethnic communities in countries such as Canada, America, Australia and New Zealand ‘were suddenly redubbed “first nations”’ (Oomen 2005:9). In the case of South Africa, it was in this context that the history of the [Khoi] San suddenly got special attention and their leaders were recognized in public meetings by the new political leadership. Subsequently, one of their indigenous languages was used in the new Court of Arms. Responding to the question: what revived traditional leadership in world politics? Oomen (2005:11) provides the following reasons:

- The changing role of the nation-state
- The availability of space for the rise of alternative polities
- The rise of culture as a means through which to engage with modernity
- The recognition of group rights.

When South Africa became a democratic country in 1994, the idea of going back to the roots became evident almost everywhere. This included the attire of the politicians which became more and more African. Nelson Mandela set the ball rolling by re-naming the

presidential residence in Pretoria *Mahlambandlovu*. As a man from the royal family himself, Mandela knew that just like a palace occupied by the king, his aides and those close to him the presidential residence is the centre of political power. Changing the name symbolised that power. Most importantly, this was a way of making a statement to the international community that a new leadership was now in charge of South African affairs. Individual politicians followed-suit when they discarded their English names and reverted to their African names as a sign that they were going back to the root. Thus, Sam became Mbazima Shilowa, Shepherd became Membathisi Mdladlana, to name but a few. Even outside parliament this name change continued unabated. One of Cape Town's renowned politicians, Benny Alexandra discarded his name and preferred to be called Khoisan X. He felt that this name would bring him closer to the indigenous people of the Cape and thus make him look more African and authentic.

It was in this spirit of renewed pride in oneself and about one's group that the issue of traditional leadership gained new momentum. The question was: if various groups were being recognized at an international level, on which grounds could South Africa ignore or even suppress this development? The *Chicago Tribune* (15 September 2004) observed that Africa in general was already in the process of defining itself as a continent while also trying to establish what it means to be an African. According to this newspaper, such self-introspection 'includes finding a balance between the traditional leadership of chiefs, monarchs and other strongmen in Africa and Western-style democracy.' It is clear from the discussion thus far that even if the ANC-led government had planned to ignore traditional leaders, it could not do so because the world was moving towards a particular direction on group and individual rights.

Developments in Africa

History is the best teacher. Before deciding on what to do with traditional leaders the ANC leadership saw it necessary to draw from the experiences of other countries on the African continent despite the evident inconsistent approaches by these various countries in dealing with the institution of traditional leadership. The first step was to acknowledge the fact that the institution of traditional leadership has deep roots in Africa and that it dated back to the time when African groupings switched from their nomadic way of life and experimented in agriculture – which forced them to become settled communities in different parts of the continent ((Iliffe 1987; Iliffe 1995; Iliffe 1998, Karugire 1971; Cohen 1977; Kiwanuka 1972).

Secondly, they had to acknowledge the fact that traditional leaders in their various forms had a role to play in society. Sakyi (2003:131) aptly summarises these functions as follows: ‘traditional leaders once held a firm grip on the social, economic and political system that governed society.’ He continues to say that the overall maintenance of social cohesion was the direct responsibility of traditional leaders. Implicit in this submission is the argument that without traditional leaders there would be no order in society.

Thirdly, it should be mentioned that the ANC leadership had to consider the fact that the British and the French governments in Africa had different approaches to governance. The British retained the institution of traditional leadership after ensuring that they had removed any possibility of them assuming political power in future. Traditional leaders were assigned new roles ostensibly intended to advance colonial interests. This is what became known as indirect rule. The French on the other hand (and

to some extent the Portuguese) discouraged Africans from leading their own way of life because they considered it to be primitive but also realized that anything that went wrong with its colonial subjects would reflect negatively on the mother country. In the process, Africans in the French colonies of West Africa were encouraged to live like the French. In fact, some even became French citizens.

Fourthly, the ANC leadership had to look at how some African governments dealt with traditional leadership at independence and draw lessons from there. For example, Mozambique first destroyed the institution of traditional leadership but later revived it (Ntsebeza 2006). This showed that the institution had a place in a democracy even if it was different from what it was before independence. However, Mozambique, like Mali did not create a space for this institution in their National Constitutions as South Africa would do a few years later. Like Mozambique, the Zimbabwean government first tried to destroy the institution of traditional leadership. However, in 1993 this decision was reversed. Subsequently, the Zimbabwean Constitution now provides for both National and Provincial Houses of Chiefs.

In English-speaking West Africa, a quick observation showed that Ghana's constitution also recognizes traditional leaders. In Botswana too, the Constitution provides for the House of Chiefs. In Uganda, the 1966 Constitution abolished kings and kingdoms (including that of the Kabaka of Buganda which had been confirmed by the Buganda Agreement of 1900 which the Kingdom had signed with the British). However, when President Museveni came to power in 1986 he restored the kings' titles but did not give them political power nor did he expect them to actively take part in politics. In his view, they had a role to play in society but that role was not supposed to be political

because traditional leaders are expected to treat everybody the same way and therefore cannot belong to political parties. For example, the 1995 Ugandan Constitution, Article 246 3(a)...(e) states the following: ‘A person shall not while remaining a traditional leader or cultural leader join or participate in partisan politics’ (cited in Museveni 2008:9). But the fact that traditional leaders were being recognized brought a glimmer of hope to the institution of traditional leaders and gave the South African leadership something to ruminate about.

All of these developments provided the basis from which the ANC leadership could make its decision on the institution of traditional leadership. The question became: if, even countries that once abolished the institution revived it at a later stage, on which grounds would South Africa shut them out in the new political dispensation? Most importantly, if South African provinces were predominantly rural and had a sizeable number of traditional leaders, how could such leaders be ignored in governance? Thus, a combination of factors influenced the minds of the ANC leadership. It was after considering these factors that they resolved to revamp the institution of traditional leadership and ensure that its continued existence is enshrined in the new National Constitution. Trying to understand the changing position of the ANC leadership without considering this historical context would be a futile exercise because ANC leaders did not operate in a vacuum when they retained traditional leaders in the modern governance system.

The reality on the ground in South Africa

Overall, the situation in South Africa dictated the need for the resurgence of traditional leaders. During the protracted struggle for liberation freedom fighters found themselves waging war on two fronts. On the one hand their primary target remained the apartheid government which they wanted to oust. On the other hand they faced the rage of some traditional leaders who did not tolerate their political activities against the state to which they had become beneficiaries. Thus, from the mid to the late 1980s some chiefs were labelled “collaborators” of the apartheid government (Oomen 2000; Ntsebeza 2006). In a way, this shaped the nature of the relationship between freedom fighters and traditional leaders, both in the short and long-term. As the day of freedom approached in the 1990s, the nature of the relationship between traditional leaders and the anticipated new black leadership had to be discussed. This triggered a spiteful debate. Some liberation fighters within organizations like the ANC called for the destruction of the institution of traditional leadership, arguing that it was associated with apartheid. Others called for its retention, arguing that it would assist in local governance, especially because they had been performing these duties under the apartheid regime.

But the decision by the ANC to open communication channels with traditional leaders was not an easy one at all. It was necessitated by both reality and the ANC’s calculation of self-interests. In other words, the ANC looked at the long-term positive impact of this decision for the organization. By the late 1980s and early 1990s the ANC following in the rural areas governed by traditional leaders showed an upward surge. Part of the reason for this increased support was the hope that once the ANC was in power it would destroy the institution of traditional leadership. As Oomen (2000:73) puts it ‘the general belief in struggle circles was that chiefs would disappear with the apartheid

government, to make place for organs of the people's power.' Thus, 'when the ANC in exile began holding talks with the Congress of Traditional Leaders of South Africa (CONTRALESA) this caused a severe crisis of confidence among their rural supporters who saw in the chiefs their main day-to-day oppressors' (Oomen 2005:44). The question becomes: why was the ANC so interested in the traditional leaders and even risked losing some of its supporters? It is here that the issue of 'a forced marriage' becomes even more evident.

Firstly, it must be recalled that the ANC leadership had a rural background. In fact, Nelson Mandela came from a royal family and he knew the roles and functions of traditional leaders in a society (Mandela 1994; Meer 1988; Johns 1991). Even Oliver Tambo was brought up through the institution of traditional leadership in Mbizana District, in what was known as Eastern Mpondoland or eQawukeni (Jordan 2007; Callinicos 2004; Baai 2006). It would not be easy therefore to discard the institution of traditional leadership now that they were about to take political power from whites. In that context the marriage between the two was a forced one.

Acknowledging the role played by traditional leaders in the past and considering their potential role in future, the ANC leadership and other negotiators created a space for them during the negotiations. Although traditional leaders had not been considered as direct participants in the Convention for a Democratic South Africa (CODESA) talks, Mandela saw it necessary to invite them to attend the talks as observers. He knew that they would play some role in the new political dispensation and therefore had to be well informed about all the important issues that were being discussed in Kempton Park, Johannesburg. Because traditional leaders had already kept the Bantustans functional for

decades, some attended the CODESA talks as part of the delegations from the different homelands. But as the talks continued, an 8-member committee was put in place to look into the possibility of having traditional leaders coming to the talks as direct participants. The committee recommended that a total of 48 traditional leaders together with 20 advisors be invited to directly participate in the deliberations. By this time the question of whether or not traditional leaders should form part of the discussions no longer existed. The focus was on redefining their roles and functions.

The other reason for accommodating traditional leaders was the fact that, following the division of South Africa into nine provinces during the CODESA talks, six of those provinces were all governed by traditional leaders. These were: the Eastern Cape, KwaZulu-Natal, Mpumalanga, Northwest, Northern Province (Limpopo) and the Free State. The ANC calculated that if it did not have a good rapport with traditional leaders in these provinces this would cost it a significant number of votes. Although there were those who did not like traditional leaders and perceived them as oppressors and people who colluded with the apartheid government, these were in the minority. The majority of rural communities respected their traditional leaders on customary grounds. Thus traditional leaders enjoyed the support of the masses in the rural areas and these are the people who were prepared to vote for whichever political party that had an interest in sustaining the institution of traditional leadership.

Another practical reason why the ANC embraced traditional leaders was the fear they had of *inkosi* Mangosuthu Gatsha Buthelezi and his Inkatha Freedom Party (IFP). The ANC knew that Buthelezi drew most of his support from rural areas, especially in what was known as Zululand. He used cultural ceremonies such the commemoration of

King Shaka's death to woo traditional leaders to support the IFP because, in his view, it was the only party that fought for their interests. He also capitalised on the fact that he had controlled their purse for years since all traditional leaders in KwaZulu received their salaries from Ulundi (Mare 1992; Mare & Hamilton 1987). It became evident therefore that any attempt by the ANC to undermine the institution of traditional leadership would be suicidal in political terms because it would benefit the IFP. As a counter strategy, the ANC established very close ties with King Goodwill Zwelithini Zulu and recognized his position in public. The aim was to counter Buthelezi's propaganda that being Inkatha and being a Zulu is one and the same thing and that anyone who does not recognize the King does not recognize Zulus in general (Mare & Hamilton 1987). The ANC's strategy worked because some of the traditional leaders who had been misinformed by the IFP joined or sympathised with the ANC. There are those who remained with the IFP as a sign of loyalty to Buthelezi or on cultural grounds. Here, again, the ANC's decision to embrace the institution of traditional leaders was necessitated by the reality on the ground. They had to be seen to be embracing the institution of traditional leadership.

The conclusion of the historic 1994 elections put the issue of traditional leadership back into the centre-stage. As many as 1500 regulations had governed chieftaincy during the apartheid era. The predominantly homeland-based pieces of legislation that governed the regulation of the institution included the following: Black Administration Act No. 38 of 1927; Black Authorities Act No. 68 of 1951; Proclamation 110 of 18 April 1957; Transkei Authorities Act No. 4 of 1965; Transkei Constitution Act No. 15 of 1976; Bophuthatswana Traditional Authorities Act No. 23 of 1978; Qwaqwa Administration of Authorities Act No. 6 of 1983; KwaNdebele Traditional Authorities

Act No. 8 of 1984; Ciskei Administrative Authorities Act No. 37 of 1984; Government Notice No. 11 of 1985 (Qwaqwa); KwaZulu Amakhosi and Iziphakanyiswa Act No. 9 of 1990; and Venda Traditional Leaders Administration Proclamation of 1991.

All these laws had to be revisited, taking into consideration the new political situation in the country. In each of the provinces that had traditional leaders, the Premier was tasked to look into specific legislations that governed the institution of traditional leadership in the province. But overall, instead of passing laws for specific Bantustan governments as had been the case before, the new government had to enact laws that would apply to the whole country and guide provinces on how to deal with this hybrid system of governance. This gave the institution of traditional leadership a new lease of life. According to de Jongh (2006:9), ‘the first formal steps to give due consideration to the recognition and role of traditional leadership were taken during the deliberations leading up to, and in the eventual drafting of the Constitution of the Republic of South Africa.’ There is credence in this submission. What is equally true is that by the time submissions were made to write the South African Constitution, it was a certainty that traditional leaders would feature in that constitution. In fact, de Beer advances the view that including a section on traditional leaders in the National Constitution was force of some sort. He argues that when the Constitution was written in the 1990s, the writers ‘were compelled to provide for the recognition of traditional leadership and its concomitant systems of governance....’ (de Beer 2004:103).

Indeed, when the National Assembly adopted the National Constitution in 1996, it included a Chapter on traditional leaders. Chapter 12 recognized the institution of traditional leadership as a legitimate government structure. Section 211 (1) stated that

‘the institution, status and role of traditional leadership, according to customary law, are recognised, subject to the Constitution’ (Act 108 of 1996, *The Constitution of the Republic of South Africa*). According to the National Constitution, traditional leaders were not simply going to have a ceremonial position. Conversely, they would be active in implementing government policies in those places that fell under their jurisdiction. Section 212 (1) stated that ‘national legislation may provide for a role for traditional leaders as an institution at local level on matters affecting local communities’ (Act 108 of 1996, *The Constitution of the Republic of South Africa*).

Before leaving office in 1999, President Mandela made an important gesture regarding the institution of traditional leadership. He convened a meeting with them and announced that their salaries would be increased. This left traditional leaders convinced that they had a life after Mandela as president. Indeed, when Thabo Mbeki took over in 1999 he ensured that the issue of traditional leaders formed part of his agenda. He argued that the institution of traditional leadership is ‘the custodian of our customs, traditions and beliefs’ (Mbeki 2001:15). As if anticipating a question from the critics of the institution, he stated: ‘of course we all understand that this institution does not have an elective base and will not have one’ (Mbeki 2001:15). This made it clear that traditional leaders would continue to exist under Mbeki’s presidency. All that needed to be done was to redefine their roles and functions. Following the passing of the *Traditional Leadership and Governance Framework Act* (No.41 of 2003), provincial governments passed theirs. For example, KwaZulu-Natal enacted *KwaZulu-Natal Traditional Leadership and Governance Act* (No.5 of 2005) (see also The Provincial Gazette of KwaZulu-Natal, No. 6460 of 16 January 2006):

To provide for the recognition of traditional communities; to provide for the establishment and recognition of traditional councils; to provide for the recognition of traditional leaders, and for their roles and functions; to provide for the recognition of *Isilo* as the Monarch of the Province of KwaZulu-Natal, to provide for the removal of a traditional leader from office; to provide for houses of traditional Leaders; to provide for a Code of Conduct for traditional leaders; to provide for the repeal of certain laws; and to provide for incidental matters.

The first local government election was held in 1996 and the second one in 2000. There was hope that at least some space would be created for traditional leaders to perform their duties. But it was also anticipated that there would be a clash of interests between traditional leaders and councillors. Indeed, these clashes occurred. Mbeki admitted as follows:

But there are instances where local councillors and traditional leaders do not see eye to eye. In situations where there are misunderstandings, the national government will play its role in ensuring a mutual collaboration for the benefit of our people (Mbeki, 2001:15).

These clashes have become more predominant in certain municipalities than in others. But despite these conflicts, rural communities still feel that the two institutions should continue to work together. This point is expounded below.

But what exactly led to the resurgence of traditional leaders and their continuation to wield power in post-apartheid South Africa? This is a tough question to answer. Here, Oomen (2000:73) provides three reasons:

- They are considered to be “voter brokers” – they deliver rural votes,
- Some see chieftainship as central to the search for an authentically South African political ideology able to contribute to a post-apartheid identity;
- The weakness of alternative institutions such as the Magistrate’s courts.

Certainly, these are valid and concrete reasons. However, the last bullet should not be over-emphasized because even if stronger institutions existed on the eve of the election

the call for the resuscitation of traditional leadership institutions would have been made anyway because of the first two bullets.

Views from rural communities on the co-existence of traditional leaders and councillors

In principle, we do not subscribe to the urban/rural dichotomy that is generally used in many studies that discuss South African socio-political history. Our resentment derives from the fact that this division is, in a way, artificial and ignores the fact that people have mobility. Most of the people considered to be urbanites are, in fact, migrants from rural areas who travel home whenever a small chance presents itself. Even people who live in rural areas visit urban centres and spend some time there such that they become conversant with what urban life entails. Therefore we believe that the line between urbanites and rural dwellers is very thin and fluid. But we still use the phrase ‘rural communities’ simply because the studies discussed below were conducted entirely in the rural areas in different parts of South Africa, more specifically, in northern KwaZulu-Natal and in Limpopo provinces.

Our submission in this section is that even if the ANC had tried to destroy the institution of traditional leadership after assuming power in the GNU in 1994, this goal would have been very difficult to achieve given the views held by rural communities to-date about the role of traditional leaders in a democracy.

Studies show that the general feeling among rural communities is that traditional leaders cannot be destroyed just to give way to democratically elected councillors who they consider to be a foreign institution (Oomen 2000; de Beer 2004; Oomen 2005). They argue that councillors have access to developmental funds but traditional leaders have the

final say over land. In other words no development can take place in a rural community unless the local traditional leader gives it his blessing. A pilot study conducted for the Human Sciences Research Council (HSRC) by one of the two authors in 2005 was more revealing. The study was conducted in northern KwaZulu-Natal among forty informants randomly selected from three tribal authorities (Mathenjwa, Mngomezulu and Nyawo) – all of which fall under the Jozini Local Municipality. The informants were asked: ‘who is responsible for development in your local municipality?’ A total of 80 per cent stated that development is the responsibility of traditional leaders, while 7.5 per cent stated that development is the responsibility of the councillor. The remaining 12.5 per cent stated that both councillors and traditional leaders are responsible for development and service delivery.

These mixed opinions cannot be explained in a single sentence. One of the explanations is that when the *Local Government Municipal and Structures Act* (No. 117 of 1998) was promulgated, it remained silent on the role of traditional leaders in the activities of the municipality. *The Local Government Municipal Systems Act* (No. 32 of 2000) referred to the inclusion of the community in the operation of the municipality but did not spell out explicitly what the role of traditional leaders would or should be. In the absence of this clarity, the Jozini Local Municipality used intuition when dealing with traditional leaders. When the then Speaker of the Municipality was asked if the municipality was compelled by any legislation to include *amakhosi* in its day-to-day activities he provided the following enlightening response:

We simply looked at our situation as a municipality located within *amakhosi*, we looked at them as people who could play a role, as important stakeholders under our municipality and felt that we cannot exclude them even though there is nowhere where it is stated that the Speaker must go to report to *amakhosi* but we agreed to work like that

after considering our situation (Interview with the Speaker of Jozini Local Municipality, 4 July 2005).

In the light of these ambiguities and uncertainties, a question was asked if it is necessary for traditional leaders and councillors to co-exist or if only one should be allowed to operate. Interestingly, 62.5 per cent of the informants felt that the two should indeed co-exist and work together to accelerate development while only 37.5 per cent argued that only one of them should remain to avoid any power struggle between them. The last figures tally with those revealed by a study conducted by Barbara Oomen in Limpopo in 2000. She asked her informants the question: ‘do you think traditional leadership should be retained in the new South Africa?’ When the responses were returned 61 per cent answered “yes” while only 39 per cent answered “no” (Oomen 2000:80). When she tried to establish why her informants had so much confidence in traditional leaders and did not want to discard them they told her that if they were to go to the national government, they could do that through their traditional leader. Moreover, they argued that although there is the national, provincial, and local governments, ‘the *magosi* (chiefs) are the government at grass-roots’ (Oomen 2000:80). It would be difficult to convince such people that the institution of traditional leadership should be destroyed.

The present authors conducted another study in KwaZulu-Natal in 2008 to establish why service delivery is almost non-existent under the Jozini Local Municipality. We first wanted to establish if the informants knew exactly who is responsible for service delivery in their areas between traditional leaders and councillors. We gave them three options: (i) *inkosi* (chief); (ii) the councillor; (iii) Both. Unlike in the earlier study, less than five per cent of the informants felt that development was the responsibility of the traditional leader. Instead, they either said that it was the responsibility of the councillor

or a task to be performed by both the councillor and the traditional leader. We could conclude that the informants have had more time to observe who does what in their communities, hence this change of statistics.

As our main question, we asked the informants: Should councillors and traditional leaders co-exist? Not surprisingly, of the 132 informants who took part in the study, 81 per cent stated that indeed the two institutions should continue to co-exist and work together. Only 19 per cent felt that the two institutions cannot co-exist. Except for authors like Ntsebeza (2006) some scholars share the views of rural communities that the two institutions can co-exist (see de Jongh 2006). Ndlela, Green and Reddy (2006:235) argued: ‘it is difficult but not impossible to form functional linkages between traditional leadership and municipalities.’ *The White Paper on Traditional Leadership and Governance* (2003:78) was emphatic on this issue: ‘There is no reason why African customs and traditions should be seen to be in conflict with the demands of modern governance. What is required is an innovative institutional arrangement, which combines the natural capacities of both traditional and elected local government....’ Therefore, the reality on the ground in South Africa made it inevitable that the institution of traditional leadership should be embraced in the new political dispensation. The ANC leadership felt duty bound to enter into this marriage out of necessity – it was a forced marriage.

Conclusion

The discussion above has revealed that both endogenous and exogenous factors indeed combined to influence the minds of the ANC leadership. It has also become evident that no one can understand why the ANC leadership changed its position without first

considering some of the international and continental developments over which the ANC had no control and to whose pressure it had to succumb. Most importantly, the article has demonstrated that the local situation in South Africa made it a foregone conclusion that the modern and traditional institutions of leadership would co-exist. It is also clear that one of the reasons for embracing traditional leadership is to accelerate service delivery. The Cabinet of KwaZulu-Natal on 5 September 2007 focused specifically on this theme due to its importance (KwaZulu-Natal Weekly Cabinet Meeting, 5 September 2007).

The way forward in dealing with the institution of traditional leadership at a more general level is encapsulated in the recommendations of the International Conference on Traditional Leadership held in Durban on 25 and 26 October 2007. The purpose of the Conference was, *inter alia*:

To explore international perspectives of traditional /indigenous leadership in relation to democracy, governance issues, gender issues, Pan African Institutions, legislative imperatives and government participation, succession/leadership disputes/conflict resolution mechanisms and the role of traditional leadership in economic development' (Conference Programme).

The Conference was hosted by the Department of Local Government and Traditional Affairs in KwaZulu-Natal headed by Minister Mike Mabuyakhulu. It was attended by traditional leaders from across Africa as well as Australia and New Zealand. After deliberating on various issues for two days, the conference agreed *inter alia* that to ensure uniformity, all governments where the institution of traditional leadership exists should recognize it formally by making provision for its existence in their constitutions and by redefining their roles and functions (Mabuyakhulu 2007). The Conference mandated the Minister from Ghana to hand a copy to President John Kufour and ask him to table this resolution in the Heads of States meeting. This was a sign of great determination.

Although South Africa has already made provisions in the national Constitution for traditional leaders, the government still has a task to educate those who are against the institution and make it clear to them that the debate is no longer about whether traditional leaders should exist or not, but on how they should function without clashing with local councillors. At the same time, provincial governments should convey the message to the councillors that traditional leaders are not their enemies.

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