

**THE ROLE OF TRIBAL AUTHORITIES IN A DEMOCRATIC
KWAZULU-NATAL.**

ALEXIUS LAMBAT AMTAIKA

*Submitted in partial fulfilment of the requirements for the
degree of Master of Social Science in the Department of Political
Studies, University of Natal*

Pietermaritzburg

June 1996.

ABSTRACT

This thesis attempts to define the role of tribal authorities in the structures of the democratic government in the South African province of KwaZulu-Natal. However, the major difficulty lies in the nature of the institution of tribal authorities itself. In African tradition, leadership is hereditary. It is not subject to any electoral process. Besides this, the hereditary process is fundamentally male primogeniture and by nature excludes women. This contradicts the principles of democracy and the bill of rights which the democratic government of South Africa has adopted.

Nevertheless, the institution of tribal authorities is not new in South Africa. It has existed and worked hand in hand with previous governments in South Africa since the period of the British colonial rule in the early 19th century. During the apartheid era, tribal authorities served as the local government in the rural areas of the KwaZulu Bantustan. Chiefs only lost this status after the formation of the Government of National Unity in 1994. However, most chiefs still have great influence and respect among the traditional people who live in rural areas. Besides this, among the Zulus, the institution of tribal authorities symbolizes Zulu nationalism and culture. Because of their closeness to the people at the grassroots, chiefs have good relationships with different political parties, particularly the Inkatha Freedom Party and the African National Congress. Probably they are seen by these political parties as potential allies and agents for political mobilization and recruitment in rural tribal areas.

Consequently, abandoning the institution of tribal authorities in the democratic dispensation is unrealistic and irresponsible. To meet the political realities of KwaZulu-Natal, a certain form of representation in the structures of democratic government at both the provincial and local levels needs to be given to the institution of tribal authorities as part of the democratization process, and also as a means of expanding the

scope of democracy in rural areas. This also fulfils one of the precepts of democracy which entails including all the concerned groups of people in a society, irrespective of colour, creed, sex, race, tradition and culture. Nevertheless, to achieve this, some adjustment is necessary to make possible the incorporation of the institution of tribal authorities in the structures of the democratic government.

How can this institution be accommodated? What will the status and position of chiefs be in these structures? What will be their new role? How well can democratically elected structures work with non-elected ones? Is the inclusion of tribal authorities in the democratic government not going to conceptualize ethnicity? In other words, does ethnicity have any room in South Africa's democratic dispensation?

To address these questions, this thesis assesses a number of aspects, which include examining the role chiefs played in the previous government, their relationships with the people, the Bantustan government and Inkatha Yenkululeko Yesizwe, and other political parties especially in the democratic dispensation. The thesis also examines legislation passed by the Government of National Unity, as well as the constitutional proposals of the Inkatha Freedom Party, the African National Congress and other political parties in the provincial government of KwaZulu-Natal concerning the role of tribal authorities.

ACKNOWLEDGEMENTS

I am very grateful to Professor Ralph Lawrence for his thoughtful supervision, advice and encouragement throughout the course of my research and for his constructive comments on the draft chapters. I'm particularly thankful to him for his eagerness to assist me by always making himself available. He made my studies enjoyable and understandable. I found that his suggestions and co-operation eased my studies considerably. He has been a cheerful, generous and considerate person. Thanks very much.

Many thanks also should go to Professor Douglas Irvine, for encouraging me to take up this study and also for providing me with accommodation during the period of my studies at this university. I particularly thank him for making his collections on local government and traditional leaders from the Department of Constitutional Development available to me. It must be frankly acknowledged that without him this thesis could have not been possible. Special thanks should also go to his wife, Colleen, for the hospitality and generosity she showed me during my stay at their house.

Due thanks should also go to Mike Tarr of Inkatha Freedom Party, and Induna David Ntombela for their kindness in organizing and making possible my interviews with the traditional leaders from Vulindlela District. The chiefs of Vulindlela District, namely, N. Zondi of Mpumuza, Z. Zondi of Inadi, and A.V.Ncgcobo of Mafunze tribal authorities, should also be thanked for their cooperation and information they provided me during the interviews. Mr Ncube, the Magistrate of Vulindlela, stationed at Edendale should also be thanked for the information he provided me concerning the existing structures and role of tribal authorities in this district.

Special thanks should also go to Mike Stanleys, Director of the Department of Local Government in Pietermaritzburg for

finding time in his crowded schedule to hold a discussion with me. I am also especially indebted to Themba Mkhize of Xamalala, Vusi Tshabalala of Mafunze and Abdul Aweta an Inkatha Freedom Party member from Imbali for sharing with me their opinion concerning the role of tribal authorities in the democratic dispensation.

Officials in the offices of the Inkatha Freedom Party in Durban and those of the African National Congress in Pietermaritzburg should also be thanked for making their draft Constitutional proposals available to me.

Furthermore, a Graduate Scholarship and Graduate Assistantship from the University of Natal is gratefully acknowledged. It provided aid for furthering my studies.

Finally, my family, especially my mother, grandmother, and my Uncle, have played a greater role by encouraging me to continue with my studies. I thank them dearly for that.

DECLARATION

Except where explicitly indicated to the contrary, this study is the original work of the author. This thesis has not previously been submitted in any form to another university.


Signature..........

TABLE OF CONTENTS

ACKNOWLEDGEMENTS

DECLARATION

Pages

INTRODUCTION

1

PART ONE: GENERAL HISTORICAL BACKGROUND

CHAPTER ONE

10

The Institution of Traditional Authorities in Kwazulu and Natal Since 1970.

- The Historical Background. ✓
- The Formation of the KwaZulu Bantustan.
- The Composition of the KwaZulu Legislative Assembly.
- The Role of Chiefs in Tribal Areas. ✓
- The Formation of Inkatha Yenkululeko Yesizwe.
- The Relationship Between the Chiefs and Inkatha.
- The Relationship Between Inkatha and the KwaZulu Government.
- The Relationship Between the Zulu King, and the KwaZulu Government and Inkatha.

PART TWO: CONSTITUTIONAL DEBATES.

CHAPTER TWO

47

Recent Constitutional Debates Concerning the Institution of Chieftaincy.

- The Lombard and Buthelezi Commission Reports.
- The KwaZulu-Natal Indaba
- The Convention for a Democratic South Africa ✓
(CODESA I&II).
- The Multi-Party Talks at Kempton Park ✓

The Significance of the Zulu King in KwaZulu-Natal.

- A Demand for Federalism.
- The Status of the King Before the April 1994 General Election.
- The Status of the Zulu Monarchy and the Ingonyama Trust.
- The Stance of the King After the April 1994 General Election.

**PART THREE: REINCORPORATION OF TRADITIONAL LEADERS
IN THE STRUCTURES OF THE DEMOCRATIC GOVERNMENT.**

CHAPTER FOUR

112

The Incorporation of Tribal Leaders in the Provincial Government of Kwazulu-Natal.

- The Provisions Made in the Interim Constitution.
- The IFP's Constitutional Proposals.
- Other Constitutional Proposals.
- The Remuneration of Tribal Authorities.

CHAPTER FIVE

137

The Role of Tribal Authorities in the Structures of New Local Government.

- Legislation Dealing with the New Local Government.
- The Establishment of the New Local Government.
- The Role of Tribal Authorities in the New Local Government.
- The Role of the Tribal Authorities in Development Programmes.

CONCLUSION

173

APPENDIX

190

BIBLIOGRAPHY

191

INTRODUCTION

This thesis investigates whether the institution of tribal authorities should be incorporated in the structures of democratic government in the South African province of KwaZulu-Natal. It also examines legislation which deals with the role of tribal authorities in the democratic era. The need for such an analysis has arisen as a result of the demise of apartheid government and policies, and the formation in April, 1994 of the Government of National Unity in South Africa. This was followed by the reincorporation of the former ethnic homelands and the self-governing states into a unified South Africa. The question, then, was what to do with the institution of tribal authorities which was the basis of the legislative assemblies and part of the ruling mechanisms in the Bantustans.

The institution of a tribal authority is not a newly created one in KwaZulu-Natal, or in South Africa as a whole. It has existed and worked hand in hand with former governments in South Africa for almost a century. In the former British colonial government and the Union Government of South Africa, this institution served as part of the managerial mechanism in rural areas, in the administrative system commonly known as indirect rule. During the era of apartheid, from the late 1940s onwards, the institution of tribal authorities served as the local government in various homelands, including the KwaZulu Bantustan. Tribal authorities exercised governmental functions which ranged from the provision of services to the preservation of law and order, and the settling of minor disputes, to the allocation of tribal land held in trust. Essentially, though subject to the Bantustan government, tribal authorities provided a system of localized government to rural communities. In contemporary KwaZulu-Natal, a significant sector of rural societies still cherish the institution, and it is still regarded as a symbol of Zulu nationalism. Some progressive tribal leaders also still maintain the loyalty and respect of their communities. In KwaZulu-Natal, chiefs also have strong relationships with

political parties, specifically with the Inkatha Freedom Party (IFP) and the African National Congress (ANC). Because of the influence chiefs have in rural and tribal communities, these political parties regard them as allies in the process of political mobilization and recruitment in KwaZulu-Natal. All this suggests that any proposal to phase out the institution of tribal authorities in the democratic dispensation will not only be resisted by those who cherish traditionalism, but it is also unrealistic and irresponsible, especially when South Africa is now in the process of nation-building.

Nevertheless, the major problem with the institution of tribal authorities is that, in African tradition, leadership is hereditary. It is not subject to any electoral process. Significantly, the hereditary process is fundamentally male primogeniture and by nature excludes women. Only in exceptional circumstances would women qualify to assume traditional leadership. But the hereditary character of the institution does accommodate elected functionaries, although not women. All these aspects contradict the principles of democracy and the Bill of Rights which the Government of National Unity adopted at its inception in April, 1994.

While one can see the dilemma of incorporating the institution of tribal authorities in the democratic dispensation, the thesis argues that, for the sake of nation-building, the tribal authorities should be given a certain form of representation in the structures of the democratic government, both at provincial and local level. The reason for this is to fulfil the precepts of democracy which necessitate including all groups, irrespective of colour, race, tradition or culture. This suggests that to exclude tribal authorities from the structures of the democratic government of South Africa would negate the very same principles of democracy. By contrast, including tribal authorities would expand the scope of democracy itself and promote it in rural areas, by embracing the customary institutions of the indigenous people. In so doing the structures

of the democratic government would reflect the political realities in the province of KwaZulu-Natal.

However, the question is, if chiefs are incorporated, what role will they play in these democratically elected structures of government? What will be their position and status? Is their inclusion not going to contradict the very same principles of democracy by mixing the democratically elected with non-elected and hereditary structures? Is their inclusion not going to emphasize ethnicity in the democratic dispensation? If so, what would the consequences be?

While these questions remain to be explored, the thesis concludes that some of the duties which the tribal authorities performed in the former governments, particularly those ones which do not fall in the spheres of local government, should be retained. The thesis also suggests that tribal authorities should be remunerated for performing public duties in rural areas on behalf of the government. But the duties which they should perform in the democratic dispensation need to be defined, a matter this thesis will explore.

In order to examine, define and determine how to incorporate tribal authorities in the structures of the democratic government of KwaZulu-Natal, the role that they should play, their status, and the duties they will perform, the thesis evaluates a number of aspects. These include reviewing the role which tribal leaders played in the former KwaZulu Bantustan; the relationship between chiefs and their subjects in rural areas; and their relationship with the Bantustan government and Inkatha. The constitutional debates which took place in former KwaZulu government in the 1980s, as well as in South Africa as a whole in the 1990s, will also be evaluated. The relationship of the traditional authorities with the major political parties, namely the African National Congress and the Inkatha Freedom Party, specifically in contemporary KwaZulu-Natal, and the reasons why these parties are concerned about their plight, will also be examined. Most

importantly, legislation which was passed by successive South African governments between 1993 and 1995, concerning the future role of tribal authorities, will also be scrutinized. An analysis will also be extended to the 1995 constitutional proposals of the Inkatha Freedom Party and the African National Congress in the province of KwaZulu-Natal.

I have adopted several research methodologies. First, I evaluate the historical developments. The aim of this method is to attempt to describe and to learn from the past. I believe that a proper solution for problems concerning the institution of chieftaincy can be found by assessing this institution in relation to its historical development. This will actually help to put some of the problems of the past and the present in their proper context.

Secondly, I rely greatly on reports and literature, and to some extent on fieldwork research, namely, interviews. The interviews involved prominent and influential people who are well versed in the problems that surround the institution of chieftaincy in the province of KwaZulu-Natal. These include government officials, political party leaders, academics, local people and the chiefs themselves. The aim of conducting such interviews was to obtain updated and qualified answers, which would offer some perspective on the fate of the institution of tribal authorities in the democratic dispensation.

Thirdly, to a limited extent I used comparative studies. The aim of this method is to look at the ways other countries or people tackled similar problems. However, one has to be very cautious because comparisons with specific cases in other countries are only helpful up to a certain point. The explanation for this is that the realities of the South African politics are unlike the rest of the continent. South Africa is a rainbow nation, that is, it has a variety of races and ethnic groups which have different traditions and customs. Yet, every ethnic group desires to see its traditions and customs being

accommodated in the democratic dispensation. Another reason which makes South Africa different from the rest of the continent is that South Africa has had experience of other than traditional rule for over a century. Western rule in other parts of Africa was relatively short-lived, on average less than seventy years.

My thesis has been divided into three parts. The first part comprises a single chapter. This examines the historical context in which the institution of chieftaincy and tribal authorities operated in the KwaZulu Bantustan. It analyses the role of this institution in the structures of KwaZulu self-governing state since 1970. It provides the reader with a better understanding of the roots of the political developments which took place in the province of KwaZulu-Natal after the April 1994 general elections. In brief, it analyses the relationship between tribal authorities on the one hand, and the KwaZulu Bantustan government and Inkatha on the other, which is the key to understanding contemporary politics concerning the status of tribal authorities.

Part Two of this thesis is composed of two chapters. This focuses on the constitutional debates which took place in South Africa in the period between 1980 and April 1994. Chapter Two examines the transition from apartheid to the advent of democratic government in South Africa. It takes a closer look, first, at the Lombard Commission in the 1970s, and then the Buthelezi Commission of 1980, which were set up to investigate a possible future constitution for the province of KwaZulu-Natal; and then later on the KwaNatal Indaba of 1986, which was created by the joint governments of KwaZulu and Natal to investigate proposals for a federal system, with the assumption that such a solution would be adopted for the whole of South Africa in a democratic dispensation. Of significance is the failure of both the Buthelezi Commission and the KwaNatal Indaba to come up with constructive and concrete proposals concerning the future role of tribal chiefs and authorities in an envisaged democratic government. This was so despite the fact that tribal authorities

were the KwaZulu Bantustan government's powerful mechanism in the administration of rural and tribal communities.

Furthermore, the chapter takes a close look at the Convention for a Democratic South Africa (CODESA I and II). These were the constitutional talks which laid the foundation for the preparation of multi-party talks in this country. CODESA concentrated only on issues which were considered to be of great importance for clearing out obstacles for the beginning of negotiations for democracy. Nevertheless, the most important feature at CODESA was the change of mind by the IFP to emphasize the inclusion of the King of the Zulus and chiefs at the negotiation table, a matter which Inkatha ignored during the Buthelezi Commission and the KwaNatal Indaba.

The Multi-Party talks at Kempton Park, which came as a consequence of the deliberations of CODESA, concentrated on deciding a new constitution for South Africa. While a number of issues, such as the incorporation of the former homelands, were addressed sufficiently, and provisional solutions found, the institution of tribal authorities did not figure prominently as a constitutional focus. Debate centred on the undemocratic character of the institution, which met fierce opposition from the Women's National Coalition, which argued that tribal authorities are oppressive to women and therefore should not be protected by the interim constitution. However, the delegates to the multi-party talks agreed that continued recognition of the institution of tribal authorities should be entrenched in the interim constitution. But how this should be achieved was never decided. Instead, much attention was given to finding a solution for urban local government.

Chapter Three traverses the old and new political dispensations. It explores events which took place in South Africa, specifically in the province of KwaZulu-Natal, prior to and after the April 1994 general election. It examines issues which led to the withdrawal of the IFP from the multi-party talks

at Kempton Park. The analysis centres mainly on the status and the role of the King in Zulu ethnic politics. The significance of the part played by the King is crucial for understanding the nature of tribal authorities. The relationship between the King and the IFP, notably its leader, Chief Mangosuthu Buthelezi, after the formation of the Government of National Unity in South Africa is also evaluated.

The chapter also discusses The Ingonyama Trust Act of 1994 which makes the King of the Zulus sole trustee over ninety-three percent of land in the former KwaZulu homeland. Land under the control of the King is defined in the Act as the land over which the KwaZulu Legislative Assembly had jurisdiction in terms of The Self-Governing Territorial Act of 1971. Land has for a long time been a principal source of the authority of the tribal authorities. The problem with this Ingonyama Trust Act in the democratic dispensation is that it has created a twin power system in this province. The one is hereditary and feudal and rests on patronage. The other is modern and democratic and depends on regular elections. How well can these two systems work together?

Part Three consists of two chapters, Four and Five. This is the heart of the thesis. It examines the legislation which deals with incorporating of the tribal authorities in the structures of the democratic government in the province of KwaZulu-Natal. Chapter Four takes a close look at the methods and procedures for bringing this about. It assesses the role of tribal leaders at the provincial level. Such legislation includes: The Interim Constitution of the Republic of South Africa, 1993, Act No.200 1993; and The KwaZulu Amakhosi and Iziphakanyiswa Act, Act No.9 of 1990. The chapter also assesses the provincial constitutional proposals made by the major political parties, such as the ANC and the IFP, regarding the future role of the King of the Zulus and tribal authorities in KwaZulu-Natal. Attention is given to the disagreements between the constitutional proposals of the ANC and the IFP concerning the role of chiefs and the King in the

provincial government. What is significant in these disagreements are the attempts by each party to woo the King and tribal leaders to its own camp.

Chapter Four also focuses on a complex and controversial issue, namely, the remuneration of the tribal authorities, as provided by The Remuneration of Traditional Leaders Act of 1995. The Act leaves the responsibility for the payment of tribal chiefs in the hands of central government, yet the new constitution specifies that all matters pertaining to the institution of tribal authorities are the responsibility of the premiers and their provincial councils in their respective provinces. Another problem with this Act is that it was passed in national parliament before the House of Chiefs was created at central level. This House, in theory, has to approve any Bill passed concerning the institution of chieftaincy.

Chapter Five discusses the role of tribal authorities at the local government level. It investigates the legal situation of the new system of local government. This includes the provisions made in the New Constitution of the Republic, and The Local Government Transition Act No.209, 1993, which came about as the result of the deliberations of the Local Government Negotiation Forum (LGNF) that took place against the backdrop of the negotiations for an interim Government of National Unity by the Multi-party negotiation Council (NPNC). The principles underlying the Act are entrenched in the constitution of this country. The most important thing concerning this Act is that it does not make any specific distinction between urban and rural areas.

This chapter also examines the methods and procedures in which the tribal chiefs and authorities can be incorporated in the first and second tiers of rural local government; their status in local government in general; and the role they can play in the development programmes and in the administration of rural communities.

The last part addresses questions concerning the future role of tribal authorities in the democratic era. It also draws lessons from the experiences of the British parliamentary system, which arrived at a synthesis between traditional and modern values. The conclusion also suggests that some of the current powers of tribal leaders in South Africa need to be taken away and given to the democratically elected structures so as to enhance their accountability.

CHAPTER ONE

THE INSTITUTION OF TRIBAL AUTHORITIES IN KWAZULU AND NATAL SINCE 1970.

This chapter examines the role of tribal authorities in the former KwaZulu self-governing state. It traces and evaluates the factors that led the tribal authorities in KwaZulu to acquire the powers and the status they had in the administrative structures of the Bantustan government. It also assesses the relationships which existed between the tribal authorities, the KwaZulu Bantustan government and Inkatha. These relationships are the key to understanding contemporary politics concerning the status of tribal authorities in KwaZulu-Natal¹ in the post-apartheid era.

The chapter argues that the transfer of some subordinate power from the South Africa government to KwaZulu's conservative politicians and traditionalists, such as Chief Mangosuthu Buthelezi, provided them with a vehicle to consolidate their own powers within the Bantustan government through the structures of tribal authorities and traditions. In KwaZulu for instance, Mangosuthu Buthelezi, a chief of the Buthelezi tribe and the Chief Minister of KwaZulu Bantustan, achieved this by creating Inkatha. While the main objective for creating Inkatha was to consolidate Zulu nationalism in the 1970s, through it Buthelezi manipulated the elements of Zulu tradition in order to establish himself as a Zulu ethnic leader. And through Inkatha Buthelezi acquired a regional base as a platform to launch into national politics. He achieved this by using tribal and traditional structures as agents of Inkatha, which became central to the ideology of the Zulu nation. Furthermore, through the

¹ The naming of KwaZulu-Natal reflects the outcome of concessions offered to the Inkatha Freedom Party during the negotiation process in the early 1990s. The integration of Kwazulu and Natal, however, started in the late 1980s as a result of the agreement reached by KwaNatal Indaba, just before the beginning of the negotiations for a democratic South Africa. During the era of apartheid, Kwazulu was administered by Blacks, whereas Natal was administered by Whites.

authoritarian character which Buthelezi vested in Inkatha, he managed the power struggle for the leadership and control of Zulu ethnic politics between himself and the Zulu monarchy. He did so by achieving dominance over the Zulu King, King Goodwill Zwelithini, by relegating him to a mere figurehead in the KwaZulu Bantustan in the period between 1970 and late 1980s.

Historical Background

Originally, the involvement of the institution of tribal authorities in the administration of rural areas of African communities started in Natal in the 1830s. According to Vosloo, when Natal became a British colony after annexation in 1843, the native² policy designed by Theophilus Shepstone³ in respect of Zulu people was based on the distinction between tribal and detribalised groups.⁴ Tribal groups were confined to segregated communally owned reserves under the trusteeship of the government, indirectly ruled by means of traditional tribal institutions. Thereby Shepstone made the tribal system and customary law an integral part of his administrative machinery. Through this system the tribal authorities mediated between the government and the people. Certain administrative responsibilities, such as settling minor disputes, land allocation, maintaining law and order, providing labourers for public works, were assigned to chiefs and their tribal

² Native was a term which the former White governments of South Africa used to refer to the Black indigenous people. Another term synonymous with native is African.

³ Theophilus Shepstone was a British Diplomatic Agent to Native Tribes and Secretary for Native Affairs in Natal. He was the first British administrator to introduce the system of administration known as indirect rule in which tribal leaders were given power to rule their tribal communities under the supervision of the British magistrates who were stationed at different magisterial districts (centres) in the colony.

⁴ W.B. Vosloo, "South Africa: Local Government in White Areas," in W.B. Vosloo, D.A. Kotze, and W.J.O. Jeppe, (eds), Local Government in Southern Africa, Pretoria: Academica, 1974, p.32.

authorities, who operated under the control of a native commissioner for a demarcated region.⁵

When the four former provinces of South Africa, namely, the Cape Colony, Orange Free State, Natal and the Transvaal united to form the Union Government of South Africa in 1910, the use of the institution of tribal authorities in the administration of rural areas was inherited from two former British colonies (Cape Colony and Natal) and applied to the whole country, especially in all rural areas where this institution existed.⁶ The determination of the Union government in utilizing this system was seen when the most important legislation (The Native Administration Act, Act 38) concerning the chiefs was passed in 1927. This legislation gave recognition to chiefs and headmen as the rulers of their tribal communities on behalf of the Union government of South Africa.⁷

✓ The role of tribal chiefs and authorities was later extended in 1951 under the apartheid government which came to power in 1948. The Bantu Authorities Act of 1951 provided for the creation of Tribal, Regional and Territorial Authorities.⁸ These tribal and ethnic units formed the cornerstone of what the apartheid regime termed 'national states', which were later given partial independence in the form of homelands and self-governing states. Through The Bantu Authorities Act, the apartheid regime

⁵ See D. Welsh, The Roots of Segregation: Native Policy in Natal 1845-1910, London: Oxford University Press, 1971, pp.111-116. See also S. Debroey, South Africa to the Source of Apartheid, Boston: University Press of America, Inc, 1989, pp.278-279.

⁶ See R.M. De Villiers, "Politics" In E. Hellmann and L. Abrahams (eds), Race Relations in South Africa, London: Oxford University Press, 1949, p.512.

⁷ See N. Cope, To Bind the Nation: Solomon kaDinuzulu and Zulu Nationalism 1913-1933, Pietermaritzburg: University of Natal Press, 1993, p.100. Also see W. Hammond-Tooke, Command or Consensus, Cape Town: John Philip, 1975, p.102.

⁸ Union Government Gazette, No. 4658, The Bantu Authorities Act, No. 68 of 1951, 17/7/1951, p.44.

revitalized old tribal authorities and new ones were created in all the places where this institution was absent so as to make the apartheid system work.⁹

↘ Of great significance is the change of the role of tribal authorities in the apartheid era. During the period of British colonial and the segregationist government, the primary role of tribal authorities only emphasized supplying labour, collecting tax, settling minor disputes in the communities and land distribution. In the era of apartheid, the policies of separate development according to ethnic groups saw a shift in the role of the chiefs as increasingly they became appendages of the state bureaucracy. Chiefs became administrators in their various territories. In them chiefs were allowed to create their own legislative assemblies where they were able to pass their own laws according to their customs and traditions. This suggests that although the institution of tribal authorities derived its political form from pre-colonial society, it acquired its quasi-feudal nature and its prestige as a result of the imposition of Pretoria's Bantustan policy. The apartheid regime also increased the dignity of chiefs by remunerating them as civil servants. This recognition helped chiefs to widen their scope in their communities as the legitimate representatives of the indigenous people.

↘ With the passing of The Bantu Authorities Act of 1951, three tiers of government were installed in an attempt to remove from the White parliament the moral obligation to deal with Black affairs. These three tiers involved the creation of tribal, regional and territorial authorities¹⁰ and together with The Promotion of Black Self-Government Act of 1959, provided the basis for the creation of ethnically-defined homelands. It was felt that the homelands would thereafter serve as areas where

⁹ G. Mbeki, The Peasant Revolt, London: Penguin Books, 1963, p.17.

¹⁰ The Bantu Authorities Act, No 68 of 1951, 17/7/1951.

Black South Africans could exercise their political rights according to a strategy which involved the regeneration of Black ethnic nationalism.¹¹ The creation of the homelands was also an attempt to ward off international opposition to apartheid and satisfy the demands which formed the basis of the internal Black resistance of the 1950s and 1960. These arrangements led to a transfer of some subordinate powers from the South African government to conservative politicians who had strong links with tribal authority structures. The consolidation of power by the ruling elite in the homelands allowed it to suppress any opposition to its rule. Streek states that the rise of the homelands had led to the elite groups making use of a process of ethnic mobilization in an attempt to generate support for local leaders and the governments they headed.¹² As we shall see later in this chapter, it was within these structures that Chief Buthelezi formed Inkatha in the Kwazulu Bantustan. As an organization which aimed at consolidating Zulu nationalism, Inkatha operated through the manipulation of the institution of tribal authorities and their traditions.

The Formation of the KwaZulu Bantustan.

↘ ✓
The actual process which led to the creation of the KwaZulu Bantustan in the 1970s started in 1955. On 6 December 1955, H.F. Verwoerd, the Minister of Native Affairs, addressed an assembly of over 300 Zulu chiefs at Nongoma, where he urged them to implement the Bantu Authorities Act which had been passed in parliament that year.¹³ The Act was to be implemented under the

¹¹ W.J.O Jeppe and D.A Kotze, "Local Government in the African Areas of South Africa," in W.B. Vosloo, W.J.O. Jeppe, and D.A. Kotze (eds), Local Government in Southern Africa, Pretoria: Academica Press, 1974, p.61.

¹² B. Streek, "Disunity Through the Bantustans" in South African Research Service (ed). South African Review, Vol.2. Johannesburg: Ravan Press, 1984, p.262.

¹³ Union Government 14/1959, Report of the Department of Native Affairs for the Period 1st July 1954 to 31st December 1957, p.2.

✓
→ leadership of a Paramount Chief. The reason behind this move was to establish a subordinate African government in Zululand based on the structures of tribal authorities. Cyprian, the then Zulu King, nominated four people to reply to Verwoerd's speech. Among these was Chief Buthelezi, who according to Temkin, welcomed the government decision to entrench the institution of chieftaincy under the Bantu Authorities Act.¹⁴ However, Buthelezi also wanted the government to clarify the relationship between the Zulu King and the chiefs. According to him,

Unlike most South African tribes, we had a King in Natal before the advent of the White man. Most people resent the fact that the King is only used whenever there is trouble and they want to have more of a say in our affairs.¹⁵

Buthelezi's response had two implications. Firstly, it showed to Verwoerd that Buthelezi was a genuine Zulu traditionalist who had an interest in shoring up the structure of traditional Zulu society just as was envisaged by the Bantu Authorities Act. Secondly, Buthelezi's reference to the political manipulation of the Kingship reflected his awareness of the political uses that the institution had been put to.

The fact that Buthelezi was selected by the King to speak at the meeting indicated that Buthelezi enjoyed favour with King Cyprian, and that he had achieved some recognition as a leader within Zulu politics. In order to gain political credibility amongst the loyalists, Buthelezi set about portraying himself as a zealous supporter of the King and as a traditionalist.

NS → ✓
The foundations of the KwaZulu Territorial Authority were laid down by the passing of two Acts, namely, The Native Affairs Act, and Promotion of Bantu Self-governing Act. The Native

¹⁴ B. Temkin, Gatsha Buthelezi: Zulu Statesman: A Biography, Cape Town: Purnell, 1976, pp.50-53.

¹⁵ Ibid, p.51.

~~XNB~~ Affairs Act aimed to "consolidate the laws providing for the establishment of a Commission and of Native Councils with a view to facilitating the administration of Native Affairs."¹⁶ This provided the basis for the establishment of Tribal Councils. Each Tribal Council was headed by the local chief and included local headmen and tribal elders nominated by him.¹⁷

The Promotion of Bantu Self-Governing Act provided "for the gradual development of self-governing Bantu national units."¹⁸ It provided for the transfer of land to the jurisdiction of the planned Territorial Authorities. It defined powers and duties, which included bolstering the powers of the tribal chiefs and establishing a hierarchy of tribal regional and territorial authorities within each proposed Bantustan.¹⁹

Eight territories (including Zululand) were designated for the implementation of the Bantu Authorities Act in terms of the government's proclaimed separate development. This culminated on 31 July 1959, when 'Zululand'²⁰ was finally proclaimed a Bantu Regional Authority.²¹ KwaZulu like any other territorial authority, had no executive power. The authorities only served primarily as representatives for the Africans (Blacks) to be consulted by the central South African government on legislative,

¹⁶ Union Government Gazette No 6253, The Native Affairs Act, No. 55 of 1955.

¹⁷ Ibid.

¹⁸ Union Government Gazette No. 6241, The Promotion of Bantu Self-Government Act, No 46 of 1959.

¹⁹ Ibid.

²⁰ When Zululand was proclaimed and recognized as one of the Bantu authorities in 1959, it then came to be known as KwaZulu.

²¹ Union Government Gazette, No 6266, G.N. 1188, "The Establishment of Inkanyezi Regional Authority in Eshowe District," Under Chief Ephraim Obedia Ndwandwe, 31/7/1959.

and administrative and development aspects affecting the homelands.²²

As part of the continuation of the government's policy of implementing separate development, the apartheid government put forward a proposal for the creation of a Zulu self-governing state. This culminated in the negotiations which took place in 1960 between Chief Gatsha Buthelezi,²³ head of the Buthelezi tribe in the Mahlabathini District, and the Department of Bantu Administration and Development over the envisaged self-government of KwaZulu.²⁴ Temkin writes that this plan was supported by the Paramount Chief of the Zulus, Cyprian Bhekuzulu, whose view was that without such a government the Zulus could achieve nothing. Cyprian's suggestions were opposed by Buthelezi at a meeting of two hundred Zulu chiefs called in the early 1960s on the advice of the then Department of Bantu Administration and Development to discuss a territorial authority in Zululand.²⁵ Using his status as an administrator of KwaZulu, Buthelezi's argument was that "this plan was based on the principle of divide and rule and that chiefs alone were not competent enough to take decisions which affected urban dwellers without consulting them."²⁶ This suggests that Buthelezi's intention was not only to consolidate his position and status among the tribal authorities, but also among the Black entrepreneurial class and bureaucracy by involving them in decision-making concerning the future of Zululand.

²² Jeppe and Kotze, "Local Government in African Areas," 1974, p.59.

²³ Buthelezi took the role of the negotiator on behalf of the Zulus, because he had a unique position in Zulu ethnic politics. He was the tribal leader of the Buthelezi tribe, he was the cousin of the King, and he was also an official in the Department of Bantu Affairs. These made him qualify as the mediator between the Zulus and the government.

²⁴ B. Temkin, Gatsha Buthelezi: Zulu Statesman, 1976, p.86.

²⁵ Ibid.

²⁶ Ibid, p.89.

However, Buthelezi's rejection of the government's plan appeared to embody a deliberate ambiguity, in the sense that the government's policies entailed a stress on ethnicity and retribalization, which seemed to be favoured by Buthelezi, who wanted to establish a Zulu state. A Zulu territorial authority, therefore, would provide him with a stimulus to pursue his own political moves in Zulu ethnic politics. Buthelezi's favouritism towards the policies of separate development was seen on 17 September 1965 with the establishment of the Buthelezi tribe, in terms of the Bantu Authority Act of 1951.²⁷ Buthelezi became chairman of a council of 67 members. This meant that he was now able to serve as a government appointee implementing the compulsory Bantu Authorities Act and its attendant legislation.

13 ✓ While the issue of establishing the KwaZulu Territorial Authority was still in progress, King Cyprian Bhekuzulu died in 1969. This incident brought about uncertainty in Zulu ethnic politics, which went on for a period until a successor was chosen. However, the power vacuum left by Cyprian saw the emergence of Buthelezi in the early 1970s as an influential figure in Zulu politics. The explanation for this lies in the fact that, until the death of King Cyprian, Buthelezi had been associated with the King, so much so that he was the King's chief councillor for about sixteen years.²⁸ In addition, Buthelezi was recognized by the government as the Chief Executive Officer of KwaZulu, and so he felt that he could challenge other members of the Royal family for the leadership of Zulu ethnic politics. These reasons provided him with a vehicle to establish himself as a credible leader within Zulu politics, as well as in the eyes of the South African government.

²⁷ See The Republic of South Africa Government Gazette, No 1643, G.N. 1413, The Establishment of the Buthelezi Tribal Authority in the Mahlabathini District, 17/9/1965.

²⁸ D.A. Kotze, African Politics In South Africa, 1964-1974: Parties and Issues, Pretoria: J.L. Van Schaik Limited, 1975, p.56.

According to Temkin, Buthelezi's biographer, the election of the executive of the Zulu Territorial Authority took place on 10 June 1970.²⁹ Five members were elected from each of the twenty-three Regional Authorities. These members would in turn elect a chief executive officer and a five-man executive.³⁰ Because the entire hierarchy of political power was to be based on the institution of tribal authorities in terms of the Bantu Authority Act and the Promotion of Bantu Self-Governing Act, it therefore turned out to be an electoral college of predominantly rurally-based chiefs which elected the Zulu Territorial Authority and its executive.

In that election, Buthelezi emerged as Chief Executive Councillor of the Zulu Territorial Authority. This suggests that Buthelezi was certainly able to command a significant level of support from the chiefs of Zululand and Natal, which boosted his status and ambition as an important figure in Zulu ethnic politics. This election was followed by the "the inauguration of the Zulu Territorial Authority on 11 June 1970."³¹


The government's next step was to assign some powers to the Zulu territorial state. This was done by passing The National States Constitutional Act No. 21 of 1971. "This Act provided for the establishment of legislative assemblies and executive councils and defined their powers, functions and duties."³² This was done in accordance with the policies of separate development in order to allow the members of the legislative assemblies in the newly created Territorial Authority to have certain powers of deciding some of the policies regarding their traditions and customs.

²⁹ B. Temkin, Gatsha Buthelezi, 1976, p.124.

³⁰ Republic of South Africa Blue Book, R.P. 44/1972, Report of the Department of Bantu Administration and Development for the Period 1st January 1970 to December 1970, p.97.

³¹ B. Temkin, Gatsha Buthelezi, 1976, p.125.

³² The National States Constitution Act No 21 of 1971.



The Composition of the Legislative Assembly.

The KwaZulu Legislative Assembly was created in 1972 to replace the existing Territorial Authorities.³³ Its membership consisted of the chiefs who were serving in the Territorial Authority. The legislative assembly was granted "first stage" powers as provided for in the Bantu Homelands Constitution Act. The personal representative of the Paramount Chiefs was to remain a member of the Assembly, but the Paramount Chief himself, it was decided, should hold himself aloof from party politics.³⁴ The Paramount Chief was to personify the unity of the Zulu nation.³⁵ He was to be kept informed of business pending in the Executive Council and could meet with Councillors for discussion if he so desired. He could, too, address the House on request.³⁶

During this period Regional Authorities were empowered to make by-laws in terms of section 5 (2) of The Black Authorities Act No. 68 of 1951, which provided that these had to be approved by the State President and made known by notice in the Government Gazette.³⁷ Such Regional Authorities could make by-laws prescribing fees for services they rendered.³⁸

The status of the Zulu King in the Legislative Assembly became a contentious issue between Buthelezi and the Department of Bantu Administration. At the coronation of King Goodwill, which took place on 3rd December 1971, M.C. Botha, the Minister

³³ M. Horrell, The African Homelands of South Africa, Johannesburg: South African Institute of Race Relations, 1973, p.53.

³⁴ See Horrell, The African Homelands of South Africa, pp. 54-61. See also Survey of Race Relations in South Africa (1974), pp.189-205 and (1975) pp.126-140.

³⁵ Ibid.

³⁶ Ibid.

³⁷ The National States Constitutional Act No. 21 of 1972.

³⁸ Ibid.

of Bantu Administration and Development, sided with King Goodwill over the issue of the King's constitutional role in politics. He said that precautions would have to be taken in order to ensure that the Paramount Chief was not relegated to a position of a mere figurehead. He went on to say that "certain safeguards in this connection can be taken by way of provisions in a draft constitution which is now being drawn up for the KwaZulu Legislative Assembly."³⁹

With the constitution for the future KwaZulu Legislative Assembly pending, Botha's intention of granting executive power to the King would have effectively deprived Buthelezi of his leadership position. Nevertheless, Buthelezi was aware that any proposed constitution would have to be ratified by the KwaZulu Territorial Authority before passing into law. This was so in terms of The Promotion of Bantu Self-Government Act, No 46 of 1959, which made provision for this sort of consultation between the government and the Territorial Authorities.⁴⁰ In December 1971, Buthelezi called a meeting of the KwaZulu Territorial Authority executive at which amendments specifically stating that the King be obliged to refrain from politics was made to the proposed constitution for the KwaZulu Legislative Assembly.⁴¹ Buthelezi made it clear that the KwaZulu Territorial Authority executive would not ratify a constitution without such a provision.

The constitution of the KwaZulu self-governing state was finally approved by the South African government, and was gazetted as Proclamation R.68 of March 1972.⁴² It created a legislative assembly composed of members of the existing

³⁹ Temkin, Gatsha Buthelezi, 1976, p.144.

⁴⁰ See Union Government Gazette, No. 6241, The Promotion of Bantu Self-Government Act, No. 46 of 1959.

⁴¹ Temkin, Gatsha Buthelezi, 1976, p.145.

⁴² South African Government Gazette, No R.69, G.G. 3436, March 1972.

Territorial Authority with Chief Buthelezi remaining as Chief Executive Officer. The Assembly comprised the personal representative of the Paramount Chief, three chiefs (or chairmen of Community Authorities) appointed from amongst its members by every Regional Authority (there were 22 Regional Authorities at the date of Proclamation), the chief of each tribal authority or chairman of each community authority deemed a Regional Authority (three such bodies then existed) and 55 members to be elected by the voters of KwaZulu.⁴³ The intention behind this composition was to insist that the form of government in KwaZulu was primarily based on the institution of tribal authorities. This was in accordance with the policies of separate development advocated by the apartheid regime.

Buthelezi succeeded in obtaining the position of Chief Executive Councillor in the KwaZulu Legislative Assembly in May 1972. Nonetheless, without majority support within the newly-formed body, he would be doomed to failure within Zulu ethnic politics. He faced opposition from the King and from the members of the Royal Family, as well as from organized royalist opposition parties which sprang up in and around the KwaZulu Legislative Assembly during the early 1970s. Such opposition posed a threat to Buthelezi's newly-acquired position as an ethnic leader.

The Significance of Tribal Authorities in the KwaZulu Legislative Assembly.

The Bantu Authorities Act of 1951 committed the apartheid state to basing its policy towards Africans on remnants from the past. The 1959 Promotion of Bantu Self-government Act confirmed that commitment and established the principle of ethnic fragmentation of the African people. It was under these two Acts that Buthelezi became a chief and then chief minister of KwaZulu.

⁴³ Horrell, The African Homelands in South Africa, p.55.

While the institution of chiefs was resuscitated by the apartheid regime in its policy of separate development, the institution became an essential element in the masculine and hierarchically-ordered view of the Zulu nation in the KwaZulu Bantustan. This was evident in one of Buthelezi's speeches. He spoke of chiefs as having a depth of commitment to each other as Zulu brothers born out of Zulu warrior stock, a commitment that cannot be understood by those who called for the disbanding of KwaZulu.⁴⁴ Elsewhere he referred to chiefs as the pillars on which the Zulu nation stands.⁴⁵ "The chiefs are also sanctioned by history: You the Zulu Amakhosi (chiefs) know that history lives on through you."⁴⁶ While he was committed to using the institution of chieftaincy in the administration of the KwaZulu government, it can be argued that his commitment was also aimed at utilizing them in mobilizing Zulus in KwaZulu for his own political ambitions so as to consolidate his power in Zulu ethnic politics. But this never conflicted with the policy of the central state. Buthelezi kept in mind that when the Zulu Territorial Authority was established in 1970 its constitution, as in the case of the other Bantustans, provided for chiefs or their representatives to predominate. This remained so, even after the first elections to the KwaZulu Legislative Assembly were held in 1978, as we shall see later in the chapter. The KwaZulu Legislative Assembly was made up solely of regional authority representatives, namely, chiefs or their alternatives.

Buthelezi's commitment to deploy the institution of chieftaincy in KwaZulu Bantustan is also seen in what he wrote in 1974:

We will preserve the traditional system of chieftaincy in KwaZulu and re-affirm our constitutional relationship with

⁴⁴ G. Maré, Ethnicity and Politics in South Africa, London: Zed Books Ltd, 1993, pp.68-69.

⁴⁵ Ibid.

⁴⁶ Ibid.

the Paramount Chief and will build our future state with due regard to our cultural heritage and traditions adapted and fructified by the ideas of Western civilization and democracy and modern science.⁴⁷

MB ✓
→ This utterance suggests that Buthelezi regarded chiefs and tribal authorities as the foundation of government in KwaZulu. In the process of fulfilling his determination to keep this institution in the structures of the Bantustan government, he called for chiefs to be paid adequately.⁴⁸ In 1976 salary increases were demanded as "substantial salaries" would "prevent chiefs from falling into temptation as the political situation was full of intrigue."⁴⁹ Dictated by Buthelezi, The KwaZulu Chiefs and Headmen Act, which was passed in 1974, made it clear that maintenance of control over the ethnically defined regional population remained an important function of chiefs.

Nevertheless, Buthelezi did not always find it smooth sailing with the chiefs, many of whom were suspicious of his motives in the early 1970s. This being the case, in 1975, Buthelezi attempted to shift the formal centre of power in KwaZulu from the KwaZulu Legislative Assembly to the Inkatha movement.⁵⁰ This would have taken power away from the chiefs, who dominated the Legislative Assembly. Buthelezi did not fully trust the chiefs at the time, as they owed a considerable amount of allegiance to the King of the Zulus.⁵¹ As we shall see later in

⁴⁷ G. Maré and G. Hamilton, An Appetite for Power: Buthelezi's Inkatha and the Politics of Loyal Resistance, Johannesburg: Ravan Press, 1987, p.89. See also G. Maré, Ethnicity and Politics in South Africa, London: Zed Books, 1993, p.69.

⁴⁸ G. Maré, Ethnicity and Politics in South Africa, 1993, p.69.

⁴⁹ Ibid.

⁵⁰ See G. Maré and G. Hamilton, An Appetite for Power, 1987, pp.59-60. See also G. Maré. Ethnicity and Politics in South Africa, 1993, p.70.

⁵¹ Ibid.

this chapter, within Inkatha, chiefs became necessary functionaries, having important organizational and symbolic roles. But Inkatha's leadership was firmly controlled by the small, but ambitious, trading class and some professionals. In the KwaZulu Legislative Assembly, on the other hand, chiefs had the potential to exercise political power indirectly over Buthelezi.⁵²

Although tribal authorities constituted the main artery of the KwaZulu Bantustan, functions of government were carried out by the Cabinet Ministers, each with a specific mandate and with responsibility to the Legislative Assembly. Each was assisted by White officials seconded by the South African government. These officials had the responsibility of ensuring that bantustans were run in accordance with the policies of the central government in Pretoria. This meant that the KwaZulu authority was thus subject to limitations in law, and restrained in the exercise of those powers delegated to it.

The responsibilities of the KwaZulu government included spheres such as: finance, community affairs, public works, agriculture, education and culture, and justice. This form of administration is what McIntosh call a functional system. Smith writes that in this,

*Senior representatives of the state bureaucracy in the provinces are in charge of functionally specific state services, such as education, health, industrial development, or agricultural extension work. Administration in the field falls into almost watertight compartments.*⁵³

⁵² Ibid.

⁵³ B. Smith, Decentralization: The Territorial Dimension of State, London, 1985, p.152, quoted in McIntosh, Options for Rural Local Government and Administration in South Africa with Particular Reference to KwaZulu, unpublished Ph.D Thesis, University of Birmingham, 1992, p.72.

According to McIntosh, functional systems are usually found where the political system depends on well-developed local political institutions which have acquired devolved powers and enter direct partnerships with specialized central/regional government agencies.⁵⁴ The Bantu authority system resembled this, since it had its own legislative assemblies in which the tribal authorities were dominant members. These assemblies operated under the guidance of the central government in Pretoria.

  **The Role of Chiefs in Tribal Areas.**

The powers of the tribal authorities in the KwaZulu Bantustan were defined according to the provisions made by The Bantu Authorities Act No. 68 of 1951. In terms of Section 4 of this Act, their powers included: land allocation, the responsibility for countering soil erosion, providing services such as sanitation and education, and formulating local laws and regulation. However, this was subject to the approval of the Native Commissioner. Tribal authorities could also raise taxes on animals and local beer making.⁵⁵

Nonetheless, in terms of The KwaZulu Chiefs and Headman's Act, Act 8 of 1974, the powers of tribal and community authorities referred primarily to judicial and control functions.⁵⁶ These were mainly aimed at enabling chiefs to promote the interests of their tribes and regions, so as to initiate measures for the advancement of their people. Other important tasks of the tribal authorities include land allocation. Probably land allocation and judicial duties were the most important and practical tasks bestowed upon chiefs, because tribal authorities govern people and do not themselves provide services. Moreover, these were the duties through which the powers of chiefs were maintained in rural areas.

⁵⁴ Ibid.

⁵⁵ See Bantu Authorities Act, Act 68 of 1951.

⁵⁶ See KwaZulu Chiefs and Headmen's Act, Act 8 of 1974.

The Formation of Inkatha Yenkululeko Yesizwe.

The idea that there had always been a Zulu nation, which was confirmed through the restoration of the past under the leadership of Buthelezi, initially centred on the existence of the Zulu Territorial Authority (from 1972-75) and subsequently the KwaZulu Legislative Assembly. Although these were implemented as a result of the policies of the apartheid government, they provided the foundations for the acknowledgement of the Zulu nation's re-awakening.

From 1975 the idea of a pre-existing nation was given additional organized form in the Inkatha movement. Initially, Inkatha ka Zulu was founded in 1928 by Chief Gatsha Buthelezi's uncle, King Solomon kaDinuzulu.⁵⁷ The primary aim of this movement was to assist in the preservation of the Zulu heritage, but it became defunct a few years later as a result of the funds being embezzled, allegedly by King Solomon, due to his drinking habits.⁵⁸

The initiative to revive Inkatha was taken by Buthelezi back in the 1960s. According to Tessenorff, in the period 1959-60 King Cyprian, the reigning Zulu King, supported the idea of reviving Inkatha by encouraging a young chief, Mangosuthu Gatsha Buthelezi, to restore the movement.⁵⁹ The idea was squashed by C.B. Young, Secretary for Bantu Administration, who placed pressure on the King to withdraw his support from the venture and order the shelving of the project.⁶⁰ The reason was that the organizational framework and political autonomy provided by the

⁵⁷ G. Hayes, Inkatha: An Analysis. Paper Given at the Southern African Studies Seminar, Pietermaritzburg, Thursday 10 May, 1979, p.1.

⁵⁸ Ibid.

⁵⁹ H.R. Tessenorff and B.E. Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, Summerstrand: University of Port Elizabeth Publications Series, 1991, p.6.

⁶⁰ Ibid.

homeland policy for the purpose of such organizational mobilization was not yet available.⁶¹

According to Tessen Dorf, the next stage in the efforts to revive Inkatha was initiated by a power struggle involving Buthelezi and the Zulu Royal Family. In 1969, after the death of King Cyprian Bhekuzulu, Prince Israel Mcwayizeni became Zulu regent until Prince Goodwill reached the stage necessary to assume the duties of his office.⁶² A rift developed between Buthelezi and the Zulu Royal Family over the idea of the introduction of a territorial authority for Zulus.⁶³ Maré and Hamilton argue that although the Zululand Territorial Authority, which was eventually established in 1970, would enhance Buthelezi's position with the Zulu homeland, he did not want it to be seen that the move towards this was being initiated by the Royal Family.⁶⁴

Buthelezi's initiative to revive Inkatha in 1972 came in an attempt to achieve certain objectives. Principally, he assumed that Inkatha would be a Zulu rather than a national Black movement; that it would aim to achieve the socio-economic upliftment of the Zulu people rather than liberation; and that it would not be a political party.⁶⁵ Buthelezi connected these ideas with the analogy of the organizational structures created by the Afrikaners to facilitate their economic upliftment in the

⁶¹ Ibid.

⁶² Tessen Dorf and Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, 1991, p.6.

⁶³ Ibid.

⁶⁴ See Maré and Hamilton, An Appetite for Power: Buthelezi's Inkatha and the Politics of Loyal resistance, 1987, pp.37-38. See also Tessen Dorf and Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, 1991, p.7.

⁶⁵ See Tessen Dorf and Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, 1991, p.7.

1930s and the 1940s, a move which eventually strengthened their political base.⁶⁶

However, Buthelezi's proposed revival of Inkatha was challenged at the end of October 1973 when Chief Charles Hlengwa launched his Umkhonto KaShaka (Shaka's spear) party.⁶⁷ This revealed that there were other ideologies at work in Zulu politics which were laying claim to the symbol of Shaka. Hlengwa's party was a zealously royalist one which regarded the King as the ultimate authority in KwaZulu, and not Buthelezi.⁶⁸

Buthelezi apparently perceived this as a threat. As a result, in November 1973, he invoked the constitutional clause forbidding the King from political activities in order to extract a statement from Zwelithini forbidding the use of the name Shaka in any political party.⁶⁹ Similarly, the use of the word Usuthu was forbidden. This was because of the sensitive and explosive nature of the issue.⁷⁰ Probably Buthelezi objected to the use of Shaka's name and the royal rallying cry of Usuthu because these symbols could have been used against his own reliance on the former Zulu political figures, as well as against his use of Inkatha as the royal symbol of Zulu unity captured in the person of the king. Therefore, to consolidate his status in Zulu ethnic politics, not only did Buthelezi seek to secure the allegiance of the King and of Hlengwa, but he also denied them the right to use traditional Zulu ethnic symbols as a way of attracting support. This suggests that Buthelezi was working towards setting himself up as the sole custodian of the Zulu nation.

⁶⁶ Ibid.

⁶⁷ The Natal Witness, 27/10/1973.

⁶⁸ Ibid.

⁶⁹ The Natal Mercury, 17/11/1973.

⁷⁰ Ibid.

In March 1975 a new constitution was drawn up at the inaugural conference held at the KwaNzimela Diocesan centre near Melmoth.⁷¹ This constitution was accepted by the KwaZulu Legislative Assembly in April 1975.⁷² On 14 June the same year Inkatha Yenkululeko Yesizwe was launched as a National Cultural Liberation Movement. In his inauguration speech, Buthelezi declared that "No one escapes being a member as long as he/she is a member of the Zulu nation."⁷³ The problem with this declaration, is that Buthelezi did not specify any criteria for defining what constituted a Zulu or a member of the Zulu nation. It appears that ethnic affiliation was not a matter of personal or political choice or allegiance, but rather a matter to be decided by Buthelezi. This led Maré to conclude that Inkatha was first and foremost an example of politicised ethnicity.⁷⁴ This was because its constituency was primarily formed through Zuluness and its symbols served to mobilize a "constituency" which found expression through branches and regional structures of tribal authorities, women's and youth organizations, events, a variety of media, museums, styles of dress, and education.⁷⁵ These symbols, in turn, helped to define the Zulu ethnic identity that they at the same time reflected.⁷⁶

According to Maré and Hamilton, the composition of the Central Committee of Inkatha in 1980 included the following: eight chiefs, thirteen others including six women from outside Natal, with fewer than half the members being members of KwaZulu

⁷¹ G. Hayes, Inkatha: An Analysis, 1979, pp.1-2.

⁷² Ibid.

⁷³ KwaZulu Legislative Assembly Debates, Vol.5, 9-18 April 1975, p.134.

⁷⁴ See G. Maré, Ethnicity and Politics in South Africa, 1991, p.73.

⁷⁵ Ibid.

⁷⁶ Ibid.

Legislative Assembly.⁷⁷ The Central Committee held wide-ranging powers with its influence extending throughout Inkatha and KwaZulu politics. Maré and Hamilton state that one of these powers involved control over the selection of candidates to contest the elections held periodically in KwaZulu.⁷⁸ What this meant is that this committee served as a training ground for members in organizational matters. Besides this, the inclusion of chiefs in the Central Committee suggests that they were seen as crucial in recruiting for Inkatha. At the same time, chiefs were incorporated in leadership roles within the movement, in order to prevent a conservative backlash against the Inkatha leadership.⁷⁹

The Relationship Between the Chiefs and Inkatha.

In the early and mid-1970s, some disaffected chiefs rallied around the Zulu King in an attempt to oppose Buthelezi and the rise of Inkatha. During the formation of the organization, chiefs were seen as important in boosting Inkatha's membership, even if they were not given the same constitutional weight that they had in KwaZulu Legislative Assembly. Moreover, the chiefs had been reprimanded in the KwaZulu Legislative Assembly for their initial lack of enthusiasm for the new movement.⁸⁰

Faced by the opposition and unwillingness of some chiefs to promote inkatha, Buthelezi consequently used his powers of patronage to create new chieftainships. He achieved this by rooting the organization in traditional symbols. He drew chiefs

⁷⁷ See Maré and Hamilton, An Appetite for Power, 1987, pp.62-63.

⁷⁸ Ibid, p.63. Worth noting also is the fact that elections from the KwaZulu Legislative Assembly were few and far between.

⁷⁹ Tessendorf and Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, 1991, p.57.

⁸⁰ G. Maré, Ethnicity and Politics in South Africa, 1993, p.74.

in to the extent of using fairly direct threats to their fate as traditional leaders, as Maré writes:

The chief's 'traditional' role confirms his own 'traditional' role: "I was the traditional Prime Minister to my first cousin, King Cyprian for sixteen years, long before there was any KwaZulu Legislative Assembly;"⁸¹ and

I do not owe any political power to the KwaZulu Legislative Assembly or to Pretoria. King Shaka never owed his political eminence to any colonial power. The solidarity of the Zulu people was not dependent on white-created institutions when they defeated the might of the British Army.⁸²

From expressions such as these, Maré concluded that the regular gatherings of chiefs, under the leadership of Buthelezi as minister in charge of 'authority affairs' in the KwaZulu cabinet, served to confirm a Zulu past and an ethnic tradition, safeguarded only within Inkatha and under the leadership of Buthelezi.⁸³

Through the influence of Buthelezi, the importance of the chiefs to Inkatha was in the initial mobilization of rural constituencies, and pressure was placed on the chiefs to continue this.⁸⁴ However, a perception derived from the works of Maré and Hamilton is that the internal dynamics of the movement soon displaced the need to rely on the effort of the chiefs. Contrary to this view, Tessoroff argues that these authors ignore that

⁸¹ Maré, Ethnicity and Politics in South Africa, 1993, pp.74-75.

⁸² Ibid.

⁸³ Maré, Ethnicity and Politics in South Africa, 1993, p.75.

⁸⁴ See L. Schlemmer, "Squatter Communities: Safety Valves in the Rural-Urban Nexus" in H. Giliomee and L. Schlemmer (eds), Up Against the Fences: Poverty, Passes and Privileges in south Africa, Cape Town, David Philip, 1980, p.111.

the chiefs were incorporated in leadership roles within the movement in order to prevent a conservative backlash against the Inkatha leadership.⁸⁵ Tessororf points out that chiefs continued to enjoy the extensive power of patronage, but the misuse of these powers might have generated a substantial amount of internal friction between the masses and the relatively affluent chiefs.⁸⁶ This could have had a dramatic influence on Inkatha itself.⁸⁷

As part of undertaking development projects aimed at facilitating self-help and self-upliftment amongst its members, Inkatha's centre of control remained located in KwaZulu, where a high proportion of the male population was absent as migrant labour throughout the year. In this environment, the tribal chiefs' task was to facilitate the mobilization of the rural population by creating Inkatha branches in their areas, while rural women had to be organized into accepting responsibility for the daily operations of the movement.⁸⁸ This led to the rise of the Women's and Youth Brigades which, together with Inkatha's development office, had set up their own co-operative bulk-buying schemes and credit unions. Beall et al. claim that the Women's Brigade was a manifestation of Inkatha's emphasis on patriarchal values in that it symbolised the traditional relegation of the Zulu womenfolk to a social position subordinate to that of the male.⁸⁹ This led to the brigade acting to legitimize the hierarchial structure of the organization and providing a basis for social control. What this implies is that the Women's Brigade

⁸⁵ Tessororf and Boulton, Inkatha Yenkululeko Yesizwe: An Analysis, 1991, p.57.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ See J. Beall, M. Friedman, S. Hassim, R. Posel, L. Stiebel, and A. Todes, "African Women in the Durban Struggle 1985-1986: Towards a Transformation of Roles?" in G. Moss and I. Obery (eds). South African Review. Vol.4. Johannesburg: Ravan Press, 1987, p.96.

⁸⁹ Ibid.

was responsible for the initiation and operation of community projects, particularly in agriculture and education.⁹⁰

The absence of male migrant workers in rural areas of KwaZulu forced the structures of Inkatha to work with tribal chiefs, schoolchildren, women and the aged. This resulted in support for Inkatha being particularly strong among the economically inactive sectors. Support from the economically active came from public servants who worked for the KwaZulu government. This suggests that rural support was strongest among those who lived below the poverty line, and that peasants could be tied into a system by the benefits which trickle down to them. Consequently, Inkatha successfully captured the imagination and support of KwaZulu's rural poor and economically inactive with the creation of self-help schemes.

The Relationship Between Inkatha and the KwaZulu Government.

Inkatha had strong links with the KwaZulu Legislative Assembly, so much so that they became two sides of the same coin. Basically the explanation is that Chief Buthelezi was both the Chief Minister of KwaZulu and also the leader of Inkatha. Because of his involvement with both, these two bodies united in him. This made it difficult in practical terms to distinguish between Inkatha and the KwaZulu government.

Of great interest is how these two organizations came to coexist in KwaZulu. The rise of Inkatha hinged on Buthelezi's charismatic personality as Chief Minister of KwaZulu, and on the need to overcome opposition from both the South African government as well as from within tribal structures. According to Sitas, Inkatha was formed to consolidate Buthelezi's power-base within the KwaZulu Legislative Assembly and to generate

⁹⁰ Ibid, p.97.

Black unity by refusing independence for KwaZulu.⁹¹ Through its insistence on Black unity and solidarity, Inkatha was able to maintain complete control of the KwaZulu Legislative Assembly.⁹² This was emphasized in some of the terms of its constitution. Firstly, no person could be selected as a candidate for any parliamentary or local government election or by-election in KwaZulu unless he or she was a member of the movement.⁹³

Secondly, as from the 1979 constitution only Inkatha members of the KwaZulu Legislative Assembly were included in the National Council.⁹⁴ All the tribal leaders who were members of the Legislative Assembly were assumed to be members of the Council. Furthermore, the constitution of Inkatha stipulated that only the chairman of the KwaZulu Legislative Assembly could be the President or leader of Inkatha.

Thirdly, although the Inkatha Central Committee did not have the power to overrule decisions taken by the KwaZulu Cabinet, in the event of a clash on policy matters the Cabinet "should seriously consider" the views of the Central Committee.⁹⁵ This indicates that the view of Inkatha were likely to prevail over those of the KwaZulu Bantustan government.

Finally, Inkatha's whole control of the KwaZulu Legislative Assembly was finally achieved in 1978, after its victory in the February elections. Of the 55 seats contested in the KwaZulu Legislative Assembly, all were won by the ruling party, which

⁹¹ A. Sitas, "Inanda, August 1985- 'Where Wealth and Power and Blood Reign Worshipped Gods" South African Labour Bulletin, Vol.11, 1986, p.74.

⁹² G. Hayes, Inkatha: An Analysis, 1979, p.7.

⁹³ Ibid, p.3.

⁹⁴ Ibid.

⁹⁵ Ibid.

thus turned the KwaZulu Legislative Assembly into an Inkatha monopoly.⁹⁶

Consequently, the formal centre of power shifted from the KwaZulu Legislative Assembly to the Inkatha movement. In effect this took power away from the chief-dominated Assembly, a social grouping that Buthelezi did not fully trust, as they owed a considerable amount of allegiance to the King.⁹⁷ In Inkatha, chiefs became necessary functionaries.⁹⁸ In the KwaZulu Legislative Assembly, on the other hand, chiefs had potential power (even if they had never wielded it independently of Buthelezi) and could possibly have taken a position in line that would have better suited the South African government.⁹⁹

Although Inkatha leaders dominated the affairs of the KwaZulu government, opposition from some prominent chiefs against Inkatha's monopoly was more evident. The period between 1972-6 witnessed tension between Buthelezi and the South African government and members of the Royal family. The government was concerned with Buthelezi's attacks on apartheid and they tried to oust him from his position of prime minister to the Zulu Royal Family by promoting rural political interests under the leadership of King Goodwill Zwelithini.¹⁰⁰ Three political parties were organized in opposition to Buthelezi. The Zulu National Party was launched by Lloyd Ndaba.¹⁰¹ Chief Hlengwa

⁹⁶ Ibid, p.7.

⁹⁷ See Maré, "Tradition and Control: The Presence of the Past in Natal," in Workshop on Regionalism and Restructuring in Natal, Durban: University of Natal, January 1988, p.6.

⁹⁸ See Maré and Hamilton, An Appetite for Power, 1987, pp.59-60.

⁹⁹ Maré, "Tradition and Control: The Presence of the Past in Natal," 1988, p.6.

¹⁰⁰ Tessororf and Boulton, Inkatha Yenkululeko Yesizwe, 1991, p.8.

¹⁰¹ Ibid.

formed Shaka's Spear, a party allegedly funded by the South African Bureau of State Security, while the Inala party was created by King Goodwill, but supported by KwaZulu businessmen to signal their opposition to the government's scheme known as tripos whereby White business was allowed to invest in KwaZulu.¹⁰² Other prominent figures who supported the King in this were the late Chief Mhlabunzima Maphumulo, Chairman of the Mpumalanga Regional Authority; Chief King Mbele of the Hlanganani Regional Authority; Chief Phumowakhe Cele of Umzumbe; Mr. S.J. Gogo of Mpumalanga Regional Authority; as well as Prince Clement Zulu.¹⁰³ The Inala Party aimed to promote the restoration of the monarchy to a position of administrative authority over the KwaZulu Executive Council.¹⁰⁴

Clearly threatened by these proposed attempts to undermine his political position, Buthelezi responded by banning all the opposition political parties in 1975. He accused Maphumulo of masterminding a contravention of the KwaZulu constitution by involving the King in a political "intrigue" which aimed at deposing Buthelezi as Chief Executive Councillor.¹⁰⁵ A special Inkatha conference was called to discuss this. Buthelezi called upon the Zulu people to choose between himself and the King as the Zulu nation's political leader.¹⁰⁶ The King then expressed support for Buthelezi and disassociated himself from the new party and promised to refrain from taking part in politics.¹⁰⁷ Maphumulo was removed from his seat in the KwaZulu Assembly, suspended as chief for two years and removed from the chairmanship of the Mpumalanga regional authority. He was found

¹⁰² Ibid.

¹⁰³ Illanga, 31/12/1975.

¹⁰⁴ Ibid.

¹⁰⁵ KwaZulu Legislative Assembly Debates, Vol.7, 19 January 1976, pp.987-990.

¹⁰⁶ The Natal Witness, 25/02/1994.

¹⁰⁷ Ibid.

guilty of trying to involve King Goodwill in politics.¹⁰⁸ Consequently, low polls (that is 5 to 10 per cent) and the intimidation of candidates and voters which had characterized elections for the Legislative Assembly meant that opposition parties ceased to exist in KwaZulu after 1970.¹⁰⁹

By forbidding the King's involvement in politics, Buthelezi achieved dominance over the Zulu King, Zwelithini. He achieved this by introducing amendments to the KwaZulu Constitution, especially those dealing with the powers and status of the King. One amendment, for instance, involved restrictions being placed on the King so as to confine him to the performance of largely ceremonial duties.¹¹⁰ Buthelezi then succeeded in mobilizing enough support around himself to ensure that his version of what the King's role and duties should entail was accepted by all.¹¹¹ Introducing these arrangements, Buthelezi argued that,

*Zulus love their king, and it is unthinkable that he should be given executive functions, which would mean inevitable involvement in politics...which would tarnish the royal image.*¹¹²

One means by which loyalty to Inkatha was achieved was through the salaries chiefs obtained by becoming KwaZulu Legislative members. Where chiefs or headmen were not members of the KwaZulu Legislature, remuneration consisted, for instance,

¹⁰⁸ Ibid.

¹⁰⁹ See Maré and Hamilton, An Appetite for Power, 1987, pp.84-87.

¹¹⁰ Tessendorf and Boult, Inkatha Yenkululeko Yesizwe, 1991, p.9.

¹¹¹ Ibid. See also G. Maré, "Inkatha: By the Grace of the Nationalist Government?" South African Labour Bulletin. 1988a, Vol, 13. No.2, p.65.

¹¹² Tessendorf and Boult, Inkatha Yenkululeko Yesizwe, 1991, p.9.

of a R269 monthly stipend in August 1989,¹¹³ whereas the average minimum wage then of government employees was not less than R500 per month. By contrast, the salaries of members of the KwaZulu Legislative Assembly started off at relatively high levels, exceeding the stipend of ordinary chiefs by eight times.¹¹⁴ Therefore, chiefs were able to obtain a livelihood through official work if they become KwaZulu Legislative Assembly members, either as elected representatives of their constituencies, or through election by the regional authority. This was one way of attracting chiefs to become KwaZulu Legislative Assembly members.

Other fields where Inkatha managed to use state structures for its own benefit included the KwaZulu education system and the police. Inkatha introduced its own subject entitled "Inkatha Studies" in KwaZulu schools in order to expose the youth to its ideology and control. Maré and Hamilton observe that Inkatha also sought to control the schools by promoting the formation of Youth Brigade branches.¹¹⁵

The KwaZulu administration also relied on the support of the South African Police in dealing with anti-Inkatha demonstrations. The formation of the KwaZulu police put Inkatha's warrior tradition in uniform. In 1975 a KwaZulu Legislative Assembly request was made that the central government be asked to hand over some power to the Bantustan.¹¹⁶ Such powers included the control of law and order enforcement, unrest, distribution of undesirable literature, and the prevention of unauthorized entry of a person into the areas under the jurisdiction of tribal authorities. When powers were granted in 1978, Jeffrey Mtetwa,

¹¹³ T. Botha, P. Tandy and N. Ismail, Report on Intergovernmental Relations in Zimbabwe, Botswana and Namibia, Bellville, University of Western Cape, 1992, p.57.

¹¹⁴ Ibid.

¹¹⁵ Maré and Hamilton, An Appetite for Power, pp.183-195.

¹¹⁶ Maré, Ethnicity and Politics in South Africa, 1993, p.88.

the then KwaZulu Minister of Justice, said that the KwaZulu Legislative Assembly "not only aimed at taking over the police but would also ask Pretoria to give military training to tribal regiments."¹¹⁷

This brought together the two most prominent aspects of Inkatha's organs of control, the police and the tribal regiments. Chiefs, too, were mobilized to serve within a broad "law and order" front. In 1974, for example, the KwaZulu Legislative Assembly passed its own Zulu Chiefs and Headmen Act, repeating much of the detail of The Native Administration Act of 1927 and its amendments.¹¹⁸ The KwaZulu Act stipulated that a chief or headman "shall be entitled...to the loyalty, respect, support and obedience of every resident of the area for which he has been appointed".¹¹⁹ It placed chiefs and their assistants as local representatives of the KwaZulu government in control of law and order enforcement, unrest, the distribution of "undesirable literature", and the prevention of "unauthorized entry of any person into his (a chief's) area."¹²⁰ What is of relevance to this chapter, however, is the use made of tribal authorities in policing the Black inhabitants of Natal.

According to Maré, after 1980, the police in many districts came under KwaZulu Legislative Assembly control, while the establishment of a "security section" and camouflaged "riot police" were envisaged from early on. Considerable emphasis was laid on tradition in policing Blacks in Natal.¹²¹

¹¹⁷ Maré, "Tradition and Control: The Presence of the Past in Natal", 1988, p.11.

¹¹⁸ See Maré, Ethnicity and Politics in South Africa, p.88.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

Both education and policing by the tribal authority structures were part of the drive for ethnic mobilization by Inkatha. They intersected as well, because if education failed in establishing "unified ideas", then the police would be there to ensure that "traitors" did not threaten the political existence of Inkatha.

The Relationship Between the King of the Zulus, and the KwaZulu Government and Inkatha.

Straight away in the 1970s, Buthelezi sidelined the King of the Zulus so that he became a mere symbolic figurehead of the Zulu nation. During the first half of the 1970s, there were a number of attempts by the South African government to dislodge Buthelezi and form a more pliable leadership around the Zulu King.¹²² The government reasoned that Buthelezi did not serve the essential purpose of taking KwaZulu to "independence", and that an alternative repository of "tradition", the King, was available.¹²³ The King tried to reclaim his status in Zulu ethnic politics, and in the process of this, a row erupted between Buthelezi and the King in September 1972.¹²⁴ Each wanted to organize Shaka Day celebrations for 24th September, and each wished to deprive the other from making gains from the event.¹²⁵ Shaka was a central figure in the conception of Zulu ethnic politics. The figure of Shaka had significant popular appeal and was a symbol around which potential political support could be aroused. The King and Buthelezi were thus rivals for this support. Buthelezi attempted to prevent the King from organizing the Shaka Day event on the grounds that this would constitute political involvement and would therefore contravene the KwaZulu constitution which specified that the King should remain aloof

¹²² See Maré, Ethnicity and Politics in South Africa, 1993, p.96.

¹²³ Ibid.

¹²⁴ The Natal Mercury, 31/8/1972, 12/9/1972.

¹²⁵ Ibid.

from politics.¹²⁶ The KwaZulu Legislative Assembly appeared to regard the organization of the Shaka Day celebrations as in the King's realm, and Buthelezi was unable to prevent the King and his Council from going ahead.¹²⁷

Despite the King's success over Buthelezi on the issue of the Shaka Day celebrations in 1972, Buthelezi managed subsequently to relegate the King to a figurehead in Zulu ethnic politics. In 1972, the KwaZulu constitution was altered to reflect this supra-political position that Buthelezi wanted for the King.¹²⁸ Buthelezi intended to control the monarch through patronage of the KwaZulu Legislative Assembly. In 1974, for example, Buthelezi told the KwaZulu Legislative Assembly that King Goodwill, as the King of the Zulus, deserved expenditure of R300 000 on a palace.¹²⁹ Perhaps Buthelezi did this intentionally as part of building a support-base, both in the KwaZulu Legislative Assembly and from the King, in order to enhance his power as an ethnic politician in the KwaZulu Bantustan.

Buthelezi's attempts to expand his political constituency were given more concrete form when he formed Inkatha in 1975. He became its leader, and the King as personifier of the unity of the Zulu nation was appointed as its patron. Through the KwaZulu Legislative Assembly, many other of the King's traditional positions became part of Inkatha's political projects. For instance, in the KwaZulu Bantustan, the King's function involved two central elements, namely, to give symbolic coherence to the "Zulu nation" and to issue orders in its name; and to confer

¹²⁶ Republic of South Africa Government Gazette, No. 3436, Proc R.70 of 1972, Establishment of KwaZulu Legislative Assembly, 30 March 1972.

¹²⁷ Temkin, Gatsha Buthelezi, p.220.

¹²⁸ Maré, Ethnicity and Politics in South Africa, 1993, p.96.

¹²⁹ Ibid.

legitimacy on Buthelezi as the central political representative of the same nation.¹³⁰

According to Maré, the rift between Buthelezi and King Goodwill was only really resolved in 1982 when the King was brought to the fore to consolidate the Zulu nation against the threat offered by the potential secession of the Ingwavuma district to Swaziland.¹³¹

The speeches both of Buthelezi and the King, especially, in the 1980 and early 1990s, vindicated this reconciliation. In many of Buthelezi's speeches addressing Inkatha rallies in both rural and urban areas, a strong emphasis was placed on tribalism with reference to the humanity of the Zulu kings which symbolized the unity of the Zulu nation. Buthelezi stressed his relationship to the present King, Goodwill Zwelithini, through expressions such as "my cousin the king". This allowed Buthelezi to say that he exercised his authority on behalf of the Zulu people. Inkatha was portrayed as a mass organization based on democratic support derived from the workers and peasants.

The event which took place on 24 September 1991 on King Shaka Day is one of the many examples which verifies the above argument. Buthelezi introduced the King to the assembled KwaZulu, consular, religious, royal and other dignitaries, and to the sons and daughters of Africa. In his speech Buthelezi said:

Whenever I have to stand up to introduce His Majesty the King of the Zulu on these formal cultural occasions, I burn with a deep sense of pride. It is when one focuses on His Majesty representing the unity of the people in his person, and when you focus on his Majesty summing up Zulu history in his person, that you are confronted with an overwhelming

¹³⁰ See Maré, Ethnicity and Politics in South Africa, 1993, p.97.

¹³¹ Maré, "Tradition and Control: the Presence of the Past in Natal," 1988, pp.15-16.

*sense of who the Zulu people actually are. What makes it so special is that most of the Zulu Kings are forbears to both of us.*¹³²

The King then responded by saying that each place he visited confirmed for him who they were. The King reiterated Buthelezi's call that the real power of the Zulus was in their unity, in their purpose and in their collective voice. He affirmed that Zulus were a warrior nation, fashioned by history, and that such warrior blood strengthens not their arms only, but also their resolve to do good and their resolve to be gentle, and their resolve to spread power based on discussion and consensus.¹³³

King Goodwill functioned primarily as a symbol, rather than as a major political actor. This is evident in his speech on 24 September 1991, when he said:

*I today want to thank my uncle, the Prince of KwaPhindangene, Prince Mangosuthu Buthelezi, for what he is doing to bring about Black unity...My people, I know my uncle and he and I present the indivisibility of the nation...Put first things first and trust the history that first created the great Zulu nation and then went on to create the Zulu empire and then went further on to take that which it created and make it a force for the establishment of a new South Africa.*¹³⁴

What King Goodwill did here is to draw the boundaries of exclusion and inclusion of the Zulu ethnic group very clearly. Those who accepted him accepted Zuluness, for as he pointed out,

¹³² See Maré, Ethnicity and Politics in South Africa, 1993, p.97.

¹³³ Ibid.

¹³⁴ Maré, Ethnicity and Politics in South Africa, 1993, p.98.

"History has put me where I am and all Zulu history demands that I make the unity of my people my very first priority."¹³⁵

The most significant aspect in the relationship between the King and Inkatha was that King Goodwill provided Inkatha with an alternative entity that could live on after apartheid, a Zulu kingdom. Many speeches in the late 1980s stress a Zulu contribution to national change, with the emphasis on cultural and national diversity. For instance, King Goodwill told a 1990 Shaka Day gathering that "I am always very proud when I think of the extent to which the Zulu nation has been there at every twist and turn of history to play its role in shaping the new South Africa."¹³⁶

Although the King appeared to be very influential in Zulu ethnic politics in the 1980s, he was not allowed to be a politically active leader with an effective and autonomous power base. That role was only possible through his uncle and his traditional prime minister, Chief Buthelezi. Buthelezi, like the King, claimed the attributes that were deemed to be part of being Zulu. But unlike the King, he was placed in an executive leadership role. For example, in 1987 he told the Inkatha Youth Brigade that "I come from a very long line of distinguished Zulu generals which goes right back to the great King Shaka himself."¹³⁷ The King affirmed this view when he frequently referred to Buthelezi either as a warrior or as located within the line of Zulu warriors.

In the preceding discussion, there are two major points that have emerged. The first one is that tribal authorities and their traditional structures were used by both the KwaZulu Bantustan and Inkatha in the mobilization of Zulu ethnicity and politics. The second one is that the political direction to which Inkatha

¹³⁵ Ibid.

¹³⁶ Maré, Ethnicity and Politics in South Africa, 1993, p.98.

¹³⁷ Ibid.

leaders committed the movement depended, essentially, on the consolidation of an ethnic and regional base.

The two points are interrelated in the sense that the elements of Zulu tradition were purposely revived by the leaders of the KwaZulu Bantustan, so that through the manipulation of these traditional structures they could consolidate regional power. This suggests that Inkatha was, in part, formed to secure a regional base from which to launch into national politics. It aimed to secure that base through tribal and traditional political structures by means of the ideology of the Zulu nation. In the process of achieving this, it gave legitimacy to the strategy of working through tribal structures, so necessary for control and organization. It also bolstered the chiefs ideologically in a situation where they had no basis of authority other than by naked repression or by manipulating favours. At the same time, it allowed Buthelezi and the King to offer a supposedly disciplined constituency in KwaZulu. In so doing Inkatha became an essential aspect of the personal legitimation of Buthelezi and of the King.

By the late 1980s Inkatha had established itself as a very formidable political organization in KwaZulu. This gave Buthelezi and his supporters strategic leverage when they joined other political organizations in the negotiating process for a post-apartheid South Africa. The first strategy of Inkatha was to function as a political party within a national negotiation context. The second was to continue with Zulu mobilization in its regional base, using tradition and the symbolic figure of the King. The third involved the push for federalism, which essentially entailed the continuation of the KwaZulu Bantustan by trying to create a Kingdom of KwaZulu-Natal.

To understand why and how Inkatha pursued these strategies, Chapter Two, therefore, examines the constitutional negotiations that took place in South Africa prior to the formation of the democratic government in 1994.

CHAPTER TWO

RECENT CONSTITUTIONAL DEBATES CONCERNING THE INSTITUTION OF CHIEFTAINCY.

In Chapter One we saw that Inkatha's main objective was to promote a Zulu ethnic consciousness which relied mainly on tribal and traditional structures. These were the same structures which were resuscitated by the apartheid government to serve as agents in its policies of separate development. This implies that Inkatha's dominant 'tradition' depended on the apartheid system. Inkatha's envisaged form of Zulu ethnic politics and Zulu nation were to be consolidated through the King, under Buthelezi, and through the KwaZulu Bantustan. To realise this, the leaders of Inkatha committed the movement to a regional political strategy in an attempt to consolidate a Zulu regional ethnic base. Perhaps Inkatha's leaders followed this path, anticipating that the KwaZulu Bantustan would disappear in future legislation for the province, and that foundations for merging the two administrations of KwaZulu and Natal had to be laid down in advance.

It is in this context that the 1979 Lombard Plan, the 1980 Buthelezi Commission and the 1986 KwaNatal Indaba were set up. These proposals involved the regionalisation of KwaZulu-Natal. The chapter argues that, although the Lombard and the Buthelezi Commission Reports did not mention anything specifically concerning the status of tribal authorities in their published findings, these authorities had to form the pillar of the envisaged region.

With the advent of a new democratic dispensation, the issue of the regionalisation of a future South Africa also erupted during the Convention for a Democratic South Africa (CODESA) in the 1990s. Although most political parties at CODESA subscribed

to some form of regionalism, the Inkatha Freedom Party¹ and the National Party were its strongest advocates. Coupled with this, were issues concerning the future role of tribal authorities. Although this became a national issue at CODESA and at the subsequent Multi-party Negotiation Forum at Kempton Park, the IFP was in the forefront in pushing, not only for the inclusion of a delegation of tribal authorities at the negotiating table, but also for their incorporation in the structures of the democratic government. The chapter argues that this was so because the IFP regarded the institution of tribal authorities in Kwazulu-Natal as its ally in its campaign to consolidate a new Zulu ethnic regional base.

* Nonetheless, as a national issue at the negotiating table, the most perturbing feature concerning the future role of the institution of tribal authorities in South Africa is the very nature of the authorities themselves. Leadership is hereditary in African tradition. It is not subject to the electoral process. And the hereditary process is fundamentally male primogeniture and excludes women. All this contradicts the principles of democratic government. However, as we saw in Chapter One, tribal authorities have existed in this country for almost a century. They worked closely with different former South African governments, including homeland governments, which recognized and depended on them to administer the rural areas. In Kwazulu, these authorities became an essential component of the government and integral to the ruling party, Inkatha.

↳ The politicization of the tribal authorities, together with the problems emanating from their nature, have important implications for their future role in South Africa's democratic

¹ Inkatha was transformed in July 1990 into the non-racial Inkatha Freedom Party (IFP). The new name is an apt description of two faces of the party. On the one hand, the IFP identifies as strongly with Zulu ethno-nationalism as Inkatha did. On the other hand, as a non-racial party it seeks to formulate non-racial policies on a national platform. See A. Davidson and P. Strand, The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, 1993, p.56.

Nevertheless, Cobbett argues that to have any chance of consideration by the central authorities, it would have to have shown that the Natal region was in some way unique and deserving of a special solution.⁶ However, Natal would at the same time only have been a test case needing to be reproduced in a federally-constituted South Africa.⁷ The Lombard Plan suggested that South Africa could be divided into a manageable number of fairly integral and largely autonomous regional authorities. The significance of this arrangement was that it would not have affected the structures of KwaZulu which were mainly dominated by the institution of tribal authorities.

Whereas the Lombard investigation had close links to the central government, the Buthelezi Commission⁸ which was announced in April 1980 just before the Lombard Plan was released, got a brush-off from the National Party government before it had even had its first formal meeting. Perhaps the Nationalist government viewed such initiative as a challenge to its policies of separate development.

In the introduction to the main report, the Buthelezi Commission motivated its investigation in terms very similar to those of the Lombard Commission.

It was asked to explore the possibility of finding a way, within the framework of the Republic of South Africa, of developing a regional constitutional arrangement which might provide an alternative to the programmes to which the White political parties had become committed. Its

⁶ See the discussion of the spatial redefinition of economic and political relations in South Africa in W. Cobbett, D. Glaser, D. Hudson, and M. Swilling, "Regionalisation, Federalism and the Reconstruction of the South African State," in The South African Labour Bulletin, Vol. 10, No.5, 1985.

⁷ Ibid.

⁸ The Buthelezi Commission was named after Chief Mangosuthu Buthelezi. It was set up under his initiative.

*establishment was a Black initiative..., and a Black expression of hope that a regional moderate approach might be found which would be acceptable, at the very least, to a part of the country as a whole.*⁹

While recognizing the complex plurality of the South African population, it rejected the ethnically-based federal option that was at the heart of the Lombard Plan.¹⁰

The core of the political solution proposed by the Buthelezi Commission was to form a government for KwaZulu-Natal based on the principles of consociational democracy. Lijphart defines consociational democracy as a government by a grand coalition cabinet in a parliamentary system.¹¹ According to Davidson, a democratic constitution of this type rests on the assumption that a heterogeneous population defined by ethnic criteria cannot live peacefully together unless they are granted proportional representation, relative to the size of their group, in legislative, as well as executive, state powers.¹² As each group is sovereign in decisions concerning its own specific interests, they all have the right to veto majority decisions that breach their sovereignty.¹³

The contribution of the Buthelezi Commission to political reform in South Africa, however, remained of little significance because it was set up under the initiative of a minor national political actor, based in one of the homelands. The composition

⁹ The Buthelezi Commission: The requirements for Stability and Development in KwaZulu-Natal, Vol.2, Durban: Pinetown Printers Ltd, 1982, p.31.

¹⁰ Ibid, pp.110-111.

¹¹ A. Lijphart, Democracy in Plural Societies: A Comparative Exploration, London: Yale University Press, 1977, p. 25.

¹² A. Davidson and P. Strand, The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, Sweden: University of Uppsala, 1993, pp.52-53.

¹³ Ibid.

of the Commission itself also did not include the main political organizations, for instance, the National Party. Furthermore, no political settlement could have been reached without the participation of the ANC and other liberation movements which were in exile. Moreover, the Commission's report was rejected by the National Party government because of its call for a universal franchise, and its recommendation to dissolve KwaZulu into a larger region, which was contrary to the intentions of the government's homeland policy.¹⁴

Despite the grandiose proposals of the Buthelezi Commission to make KwaZulu part of a larger region, it never mentioned anything concerning the future role that tribal authorities could play in it. Since tribal authorities constituted a key part of the ruling machinery in the KwaZulu Bantustan, one would have expected the Commission to explore this aspect. However, the Commission did only mention the need to develop the tribal areas, as they were home to the majority of the poorest people.¹⁵ The fact that the Commission never considered the status of the tribal authorities in its recommendations seems to indicate that its intention was not so much to debate fully constitutional issues, but rather to propose some options which could have served as constitutional frameworks when negotiating a future post-apartheid government. On a positive note, however, the Buthelezi Commission is thought to have laid the foundations for setting up the KwaZulu and Natal Indaba talks which followed in the mid 1980s.

To summarise, both the Lombard and Buthelezi Commission Reports operated on the basis that there were sufficient regionally-distinctive elements in Natal to arrive at a specific

¹⁴ A. Davidson and P. Strand, The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, Sweden: Uppsala University, 1993, p. 52.

¹⁵ The Buthelezi Commission: The requirements for Stability and Development in KwaZulu and Natal, Vol. II, Section 4, "Redressing Inequality and Alleviating Poverty in KwaZulu-Natal," Durban: H + H Publications (Pty) Ltd, 1982, p.171.

solution which could then be duplicated elsewhere. This, however, was a contradiction in itself, because KwaZulu and Natal with its extreme ethnic character could have not served as a model for the whole of South Africa. Furthermore, there were fragments of KwaZulu spread across the whole region, with the consequent necessity to rationalise administration and provide services, while minimizing the risk of economic and political disruption to KwaZulu and Natal as a whole.

The KwaZulu-Natal Indaba

An analysis of the KwaZulu-Natal Indaba calls for an understanding of its historical context which dates back to the recommendations of the Buthelezi Commission in 1982. There were at least two significant differences between the two initiatives. Firstly, the large academic input of Buthelezi Commission was missing from the Indaba.¹⁶ What this suggests is that academics had already done their work for the Indaba through the Buthelezi Commission Report which was such a central influence on the Indaba proposals. Academics served only as advisors to various delegates to the Indaba.

The actual reasons that led to the Indaba talks are various. The Indaba had its origins in the practicalities of regional administration at a time when local government was deteriorating. A notable addition in the case of the Indaba talks was the second and third tiers of local administrators (tribal authorities), ranging from the KwaZulu government to the urban municipalities. Their presence signified a more interventionist approach and may also have had something to do with the spectre of ungovernability.¹⁷ The New Republic Party which turned down the Buthelezi Commission Report, and the National Party which refused to participate in 1980, were both present in 1986, the former as one of the moving forces of the Indaba and the latter as

¹⁶ See L. Schlemmer, Indaba News, No.9, 1987, p.77.

¹⁷ Ibid.

observer.¹⁸ However, this did not mean that the National Party had abandoned its policy of ethnic fragmentation. Probably it saw that through the Indaba a necessarily expanded role was being envisaged for the Bantustan. This can be seen in the comment of Gerrit Viljoen, the then Minister of Education and Development, who argued that,

*the acceptance of the validity of the KwaZulu-Natal Indaba was not a rejection of the idea of national states, but it should rather be seen as an attempt to draw homelands into South African political system on a more functional basis.*¹⁹

But perhaps Inkatha had a different perception. Probably it felt that it had outgrown the old structures in terms of its national aspirations, and that there was greater legitimacy in its inclusion in national discussions as the governing party of a federal state rather than as one of the ten discredited and tottering Bantustan governments. Inkatha might also have been attempting to surmount the tension between regional distinctiveness (where its ethnic and administrative strength lay), and the demands of national involvement (where its political weakness lay, due to its specific ethnic background).

In its bid for greater legitimacy, as federal government and successful reformer, Inkatha found allies in various business and political groups in the White community. This alliance was followed by the signing of the 1984 Ulundi Accord by the KwaZulu cabinet and the Natal Provincial Council, in which the two bodies proposed a plan for the KwaZulu-Natal region.²⁰ Aiming at a federal government for an integrated KwaZulu-Natal, the first

¹⁸ Ibid.

¹⁹ The Natal Witness, 3/05/1986.

²⁰ A. Davidson and P. Strand, The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, Sweden: Uppsala University, 1993, p.53.

phase was to increase administrative co-operation, followed by forming a joint political authority.²¹ But one significant result of the accord was the establishment of the KwaZulu-Natal Indaba, which had its first meeting in 1986.

"At the beginning of April 1986, the KwaZulu and Natal Indaba was set up to draw up a constitution for a regional legislative body, the region being defined as the area of the province including the bits and pieces of KwaZulu."²² Its delegation included thirty-four full members and three observers. During the next eight months the composition of the Indaba changed somewhat. For example, "the Trade Union Council of South Africa disbanded, and the Natal Municipal Association found that they did not have the support of sufficient members to continue, while a few additional groups joined as full participants (for example, the Pinetown Municipality) or as observers, (such as the Jewish Women's league."²³

According to Sutcliffe, setting in motion the process of establishing a regional legislature, with powers to administer and pass laws for the people in Natal, was stage three of a series of events. Stage one had been the deliberations between the Natal Provincial Council's Executive Committee and the KwaZulu cabinet in 1984, which led to the establishment of bodies to examine areas of cooperation between the two administrations. Phase two meant the creation of a Joint Executive Authority (JEA) for the region of Natal (including KwaZulu).²⁴ This needed central state approval, which was granted in 1986, and the Joint Executive Council began functioning in April 1987.²⁵ Thus the Indaba arose out of several years of cooperation between the

²¹ Ibid.

²² M. Sutcliffe, The KwaZulu-Natal Indaba, 1986, p.3.

²³ Ibid, p.3.

²⁴ Ibid, p.3.

²⁵ Ibid, pp.3-4.

state established White and African administrations within the region. It also suggests that this cooperation flowed from the need to counter the waste and inefficiency caused by the duplication of facilities in Natal.

The Indaba talks agreed to set up Joint Executive Authorities structures to take over the responsibilities for development and service delivery in the rural areas of KwaZulu and Natal. The KwaZulu government conferred such responsibilities on tribal authorities, since they were the local government in rural areas.²⁶ The creation of the Joint Executive Authorities to take over such tasks marked the beginning of moving away from using chiefs in issues concerning service delivery and development. Even Inkatha, the pillar on which the tribal leaders in KwaZulu leaned, agreed to this. This consensus suggests that delegates to the Indaba noted that tribal authorities did not have the resources to deliver services and to implement development projects.

The Indaba, therefore, by moving into the arena of political restructuring, can be regarded as a step more than mere administrative cooperation, because it was intended to bring regional legislative powers more into line with the competence of the KwaZulu "homeland" rather than matching the limited powers that had been enjoyed by the provincial government.²⁷ The provincial government was abolished in 1987, and replaced by the Joint Executive Authority, which linked the Natal Provincial

²⁶ P. Zulu, "The Rural Crisis: Authority Structures and their Role in Development," in H. Giliomee and L. Schlemmer (eds.), Up Against the Fences: Poverty, Passes and Privilege in South Africa, Cape Town: David Philip, 1985, p. 248.

²⁷ Before the Indaba, the Natal Provincial government was responsible for service delivery and implementation of projects in all the areas which were not under the jurisdiction of the Kwazulu Bantustan government. The creation of the Joint Services Boards meant that Kwazulu and Natal had to be catered for equally as a region. In other words, the JSBs had to take over all the responsibilities for service delivery and implementation of projects in the region as a whole.

Administration and the KwaZulu government.²⁸ The establishment of the Joint Executive Authority marked a change from the elected provincial government to a purely nominated one.

Concerning the talks, the Indaba operated through a series of sub-committees, for example, image management, local government, economics, constitutional planning. After a period of eight months, the Indaba produced its recommendations, which included a bill of rights and a draft constitution for legislative structures for the region. It was presented as a model that could be extended to a future federal South Africa.²⁹ The bill of rights was to be the criterion of justice against which regional legislation was to be judged.

The constitution provided for a Governor appointed by the State President on the advice of the provincial legislature, with the main function of assenting to legislation and adjudicating on the division of powers between regional and central governments.³⁰ The legislature would consist of two chambers. The first chamber would consist of 100 members elected on a proportional representation basis by all residents over the age of eighteen. The majority party would elect a prime minister who would form a cabinet.³¹

The second chamber would be elected by all voters, but for this vote the electorate was to be divided into five background

²⁸ D. Irvine, "Federalism and the New Constitution," in A. Johnston, S. Shezi and G. Bradshaw (eds), Constitution-Making in the New South Africa, London: Leicester University Press, 1993, p.20.

²⁹ D.Glaser, "The Indaba and its Proposals: A critical Response", in Workshop on Regionalism and Reconstructing in Natal, University of Natal, Durban, January 1988, p.4.

³⁰ The KwaZulu-Natal Indaba: Constitutional Proposals and Memoranda, Submitted to the Minister of Constitutional Development and Planning on 13 January 1987.

³¹ KwaZulu-Natal Indaba: Constitutional Proposal and Memoranda, B1, Clause 2.

groups, namely, African, Afrikaners, Asians, English and South African. While it appeared that voters might choose to belong to their natural group or the "South African" one, there was no choice to belong to any of the first four groups. Criteria for the identification of voters had, therefore, been made part of the constitution, leaving it to the initial discretion of the electoral officer to make a ruling on the group allocation of such a voter.³²

The second chamber could, by simple majority, halt or delay all legislation and, furthermore, five members of one of the background groups could veto legislation that would materially affect their own cultural affairs. Legislation did not depend only on the approval of majorities in the two chambers but would also have to go through standing committees on which the ruling party did not have the necessary two-thirds majority.³³ Compromise and consensus, in secret and among party leaders, was therefore built into the constitution proposed by the KwaNatal Indaba.

There were also to be cultural councils, formed after an application had been approved by a commission. They would function as an additional mechanism for the protection, and promotion, of the religious, language and cultural rights of groups representing the principal segments of the population in the province.³⁴

The constitution also provided a role for the majority of the then incumbents of KwaZulu Legislative Assembly in that a council of chiefs would "represent the interests of the traditional authorities" and would function as a cultural council. This council would, however, not be restricted to a

³² The KwaZulu-Natal Indaba: Constitution Proposals and Memoranda, Sections E3, a-c.

³³ Ibid.

³⁴ KwaZulu-Natal Indaba Constitution, K1, Clause 2.

maximum of ten members as was the case with other cultural councils.³⁵

The constitution also indicated that local government would operate through a system of local authorities, based on the then existing structures. Accordingly, traditional authorities would function as local authorities.

The Indaba constitution took as given the existence of groups which were in effect ethnic and racial categories. It entrenched these groups in two structures of regional government (the second chamber and cultural councils). The continuation of linking political rights to ethnic identification, even if only in the areas of culture, remained open to criticism.

It should be pointed out, however, that not all political parties participated in the Indaba. The non-participants included the far right-wing Whites political parties, exiled political organizations, progressive trade unions, and political and community groupings. White political parties such as the Conservative Party and the Herstigte Nasionale Party did not participate due to their strong allegiance to apartheid laws.³⁶ They would not take part in a process that was going to lead to greater integration.

The exiled political organizations like the ANC could not participate. Even so, they stood opposed to the political framework within which the Indaba was founded. It is probably true to argue that inviting them was done in the safe knowledge that this would not be seriously entertained.³⁷

³⁵ KwaZulu-Natal Indaba Constitution, Kl clause 4.xiii.

³⁶ See J Grest, H. Hughes, G. Maré, and J. Metelerkamp, "The Politics of Regionalism: The Natal Option," 1988, p.34.

³⁷ Ibid.

Different community and political groups outside the Indaba which represented urban constituencies were variously aligned with the non-racial democratic or the black consciousness movements, which rejected the Bantustan leadership as being connected with apartheid state structures. Moreover, during the Indaba proceedings, they were already in violent conflict with Inkatha and the United Workers' Union of South Africa (UWUSA).³⁸ Judging from this, it is clear that the non-participants' organizations represented a sizeable constituency in Natal.

Some of the conclusions reached by the Indaba were not debated. For instance, the Indaba's constitutional proposals did not discuss the future role of tribal authorities, yet provisions were made in its recommendations that they would function as local authorities.³⁹ The Indaba also proposed that local government should operate through a system of local authorities.⁴⁰ The problem was whether local authorities meant tribal authorities. This lack of clarification about the role of the tribal authorities suggested that in the envisaged new region of KwaZulu and Natal, they would have had to have operated under the old legislation which was passed in 1951, namely, The Bantu Authorities Act, No 68 of 1951. One can conclude from all this that issues concerning the future role of tribal authorities seemed of minor importance in the Indaba talks.

More positively, however, the Indaba was a first step on the path of negotiating the question of power-sharing in KwaZulu-Natal. In its constitutional proposals it raised many issues that remained important in the years ahead. These included issues such

³⁸ The United Workers' Union of South Africa, was a trade union aligned to the IFP which was formed with a pro-capitalist, ant-COSATU programme. See J. Grest, H. Hughes, G. Mare, "The Politics of Regionalism: The Natal Option," 1988, p.33.

³⁹ The KwaZulu-Natal Indaba: Constitutional Proposals and Memoranda, Submitted to the Minister of Constitutional Development and Planning on 13 January 1987.

⁴⁰ Ibid.

as federalism/regionalism and democratic decentralization, the process of arriving at agreed constitutional proposals, the rights of minorities and cultural diversity and identity. These considerations remained crucial to Inkatha's constitutional proposals which emerged during the national constitutional negotiations in the 1990s for a post-apartheid society in South Africa.

The Convention for a Democratic South Africa (CODESA I & II)

Tentative steps to negotiate an end to the political gridlock stemming principally from the state's apartheid policy started when the African National Congress issued its Constitutional Guidelines for Democratic South Africa in August 1988.⁴¹ Furthermore, in the same year Nelson Mandela extended an invitation to the government to negotiate a political settlement.⁴² But the real cornerstone was laid down by the then State President F.W.de Klerk in his famous speech at the opening of Parliament on 2 February 1990. That marked a turning point in South African history, for he announced the government's decision to unban the liberation movements, release political leaders from detention, and repeal even more apartheid legislation.

The February speech was followed by a number of secret meetings between the government and the African National Congress. According to Ralph Lawrence, in May 1990, formal talks between the government and the ANC produced the Groote Schuur Minute on the freedom of political prisoners and the return of exiles.⁴³ In February 1991, in the secret D.F. Malan Accord, Umkonto we Sizwe was exempted from restrictions on private

⁴¹ R. Lawrence, "From Soweto to Codesa" in S. Friedman and D. Atkinson, (eds.), South African Review 7: The Small Miracle, South Africa's Negotiated Settlement, Johannesburg: Ravan Press, 1994, p.7.

⁴² "The Reluctant Reconcilers", in S. Friedman, (ed), The Long Journey, 1993, p.9.

⁴³ R. Lawrence, "From Soweto to Codesa", 1994, p.9.

armies.⁴⁴ All these measures were aimed at establishing conditions for mutual trust which would later provide the basis for political negotiation and peaceful political settlement.

It was not until September 1991 that the foundations for multi-party (all-party) talks were laid. The vehicle was the National Peace Accord, "a formal agreement in which political parties and interest groups committed themselves to a joint peace effort, agreed to submit to discipline imposed by the accord, and to establish structures to monitor it".⁴⁵ This National Peace Accord marked the end of the pre-negotiation phase. Further talks then took place in a forum called the Convention for a Democratic South Africa (CODESA).

CODESA⁴⁶ was inaugurated on the 20 and 21 December 1991 at the World Trade Centre in Johannesburg.⁴⁷ But if the plenary session seemed to herald a fresh beginning, it did not convene without a reminder of the divided past. One key participant, the Inkatha Freedom Party's Mangosuthu Buthelezi, was absent. In the period before CODESA 1 (as the first plenary sessions became known) Buthelezi and Inkatha had insisted that an Inkatha Freedom Party delegation was not enough.⁴⁸ They had demanded that two additional delegations, one headed by the King of the Zulus,

⁴⁴ Ibid.

⁴⁵ "The Reluctant Reconcilers," in S. Friedman, (ed) The Long Journey, 1993, p.19.

⁴⁶ CODESA was portrayed in the national and international media as a forum where the parties would canvass each others' proposals for a democratic constitution, and in the end, agree on the terms for an election as well as on the basic principles of a new constitution.

⁴⁷ A. Johnston, "Introduction: South Africa Since February 1990" in A. Johnston, S. Shezi, and G. Bradshaw, (eds), Constitution-Making in New South Africa, London: Leicester University Press, 1993, p.1.

⁴⁸ "From Breakthrough to Breakdown," in S. Friedman, (ed), The Long Journey, 1993, p.21.

Goodwill Zwelithini, and the other representing the KwaZulu administration, be seated too.⁴⁹

Buthelezi's insistence was based on the fact that the Transkei, Venda, and Ciskei administrations were represented in CODESA, yet their leaders were military rulers who were neither elected nor led parties. He, therefore, felt that the KwaZulu administration and the King of its citizens who purportedly represented all Zulus should be included, since the IFP could not speak for all these different interests. To an Inkatha critic, the demand that the King be seated seemed to be an attempt to stress the importance of Zulu ethnicity, a theme which the Inkatha Freedom Party had begun to emphasize.

But whatever the motive, the demand presented CODESA's organizers with a political and logistical nightmare. The African National Congress, too, had been wooing traditional leaders. A Congress of Traditional Leaders of South Africa (CONTRALESA) had been created with its encouragement. "This was established on 23 September 1987, by chiefs of Kwandebele and Moutse."⁵⁰ CONTRALESA's aims and objectives were:

*to oppose the independence of the homelands; campaigning for the abolition of the Bantustan system; the broadening of South African system citizenship to all inhabitants in the homelands; the education of tribal leaders with regard to the freedom and their role in the struggle; appropriation of land of their forefathers; and the division of the land among those who worked for it.*⁵¹

⁴⁹ Ibid.

⁵⁰ A. Greyling, and H. Kotze (eds), Political Organizations in South Africa, Cape Town: Tafelberg Publishers Ltd, 1991, p.118.

⁵¹ Ibid.

This meant that the Inkatha Freedom Party's demands prompted counter-claims that the King of the Zulus was not the country's only traditional leader, and not its only king. If he were granted a place, all others would have to be seated as well.⁵²

Furthermore, could the Inkatha Freedom Party's demands for political recognition for the Zulu Royal House attract support from chiefs who were not Zulus? To the extent that Buthelezi managed to demand that political recognition should be given to tribal authorities in general, and not exclusively to the Zulu Royal House, the Inkatha Freedom Party might have become an alternative vehicle for chiefs across the country who aspired to political power.⁵³ The Inkatha Freedom Party might have become one of the "doors" tribal leaders might have "knocked on" to get political influence.⁵⁴ All the more so if they felt that the deal offered to them by the African National Congress did not meet their expectations.

The Inkatha Freedom Party did attend the CODESA talks. Its delegation was led by its national chairman, Frank Mdlalose. But as Friedman writes, many commentators saw the decision to send a delegation as a sign that the Inkatha Freedom Party, too, saw no alternative to negotiation and that Buthelezi's gesture need not have been taken too seriously.⁵⁵ But as we shall see below, the demand of the Inkatha Freedom Party for CODESA to include the King continued, and finally led to the party's withdrawal from the subsequent multi-party talks at Kempton Park in July 1993.

At CODESA, the management committee insisted that it was premature to include the chiefs as a separate delegation because

⁵² "Anatomy of a Convention" in S. Friedman, The Long Journey, 1993, p.22.

⁵³ A. Davidson and P. Strand, The Path to Democracy, 1993, p.58.

⁵⁴ Ibid.

⁵⁵ Ibid, p.22.

CODESA had a political foundation. It was felt that if the IFP's proposal were accepted, CODESA would have broadened participation to include ethnicity as a criterion.⁵⁶ This, however, did not suggest that the institution of chieftaincy was thrown overboard, but that its fate was an issue that would only be decided at a later stage after a proper national political settlement.

At the commencement of CODESA, major political parties had not yet announced their plans concerning the institution of chieftaincy. All the major political parties were preoccupied with the task of proposing issues which could facilitate the commencement of the multi-party negotiations. Issues concerning the future role of tribal authorities, therefore, were of minor importance. However, it might also be argued that perhaps the absence of tribal leaders from the proceedings and the agenda at CODESA was a political strategy by those opposed to them.

MS → According to Bekker, the National Party's plans were still unclear except that the then Minister of Foreign Affairs, Pik Botha, had proposed that chiefs nominate three to four members from each region to form a college of traditional leaders.⁵⁷ The college could, according to the Minister, make proposals to the multi-party conference to give effect to the role and position of chiefs in a new constitution.⁵⁸

→ The proposals made by Minister Botha could be said to be the continuation of the plan of the Nationalist Party concerning the institution of chieftaincy. Bekker points out that an attempt to rationalize and consolidate the existing laws on chieftainship was first revealed in 1990. In this plan, the broad emphasis was to maintain the status quo, but to clothe chiefs with extended

⁵⁶ The Natal Witness, 14/02/1992.

⁵⁷ J.C. Bekker, "The Role of Chiefs in a Future South African Constitutional Dispensation" in African Insight, Vol.23. No.4, 1993, p.201.

⁵⁸ Ibid.

powers of local government.⁵⁹ In other words, the plan envisaged * that chiefs would continue to be the custodians of their customs and culture, but at the same time they would be included in democratic local government structures.

→ The African National Congress also had not yet published any proposals concerning the future role of tribal authorities at the commencement of CODESA. The only plan available was mentioned in clause (C) of the African National Congress's Constitutional guidelines which stipulated that:

*The institution of hereditary rulers and chiefs shall be * transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution.*⁶⁰

→ This, therefore, suggests that the refusal by the management committee of CODESA to include chiefs was not intended to dismiss them, but was due to the lack of a framework which could have provided the basis for debate. CODESA concentrated on resolving issues which needed solutions for speeding up the resumption of the multi-party talks that could lead to the advent of a non-racial society and democratic government. These included: the ending of state of emergency legislation; the repeal of security laws; the release of political prisoners; and lifting all restrictions on organizations and individuals (which was necessary to guarantee amnesty to returning exiles).⁶¹ The parties also negotiated details about the process of electing a

⁵⁹ Ibid.

⁶⁰ Constitutional Guidelines for a Democratic South Africa: African National Congress Proposal 1955 and 1988, Cape Town: Institute for a Democratic Alternative for South Africa, 1989.

⁶¹ A. Johnston, "Introduction: South Africa since February 1990," in A. Johnston, S. Shezi and G. Bradshaw (eds.) Constitutional-Making in the New South Africa, London: Leicester University Press, 1993, p.2.

Constituent Assembly.⁶² However, both CODESA I and II failed on most accounts, especially on the issue of amending the constitution.⁶³

Davidson notes that major political parties failed to agree on constitutional issues because they sat down in a negotiating forum with far too diverse perceptions concerning the terms of reference, its democratic legitimacy, and its general function in the transition at large.⁶⁴ According to Davidson, the ANC alliance regarded CODESA as a means to reach agreement on the nature of a fast transition to the general election of a Constituent Assembly which would write the constitution, bound by a general Bill of Rights,⁶⁵ whereas the government, (National Party) and its loosely-tied allies, accorded much greater powers to the convention.⁶⁶ Furthermore, not only did they plan for a transitional period of up to ten to fifteen years, but CODESA would also have the authority to bind a future Constituent Assembly to an extensive list of general principles and constitutional institutions which would assure protection from majority domination.⁶⁷

The Multi-Party Talks at Kempton Park

After the failure of CODESA, the National Party-led government and the ANC embarked on a series of bilateral meetings in which agreements such as the Record of Understanding were

⁶² A. Davidson and P. Strand, The Path to Democracy, 1993, pp.110-113.

⁶³ Ibid, pp.102-103.

⁶⁴ Ibid, p.101.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

signed.⁶⁸ These were intended to lead to a new round of multi-party talks. The Inkatha Freedom Party reacted to the agreement reached in the Record of Understanding by threatening to withdraw from negotiations. Davidson writes that such a reaction was caused by two considerations. The clauses in the Record of Understanding which dealt with the hostels and traditional weapons would have had a direct effect on the lives and customs of people who were predominantly IFP supporters.⁶⁹ Secondly, seeking a position in the negotiations equal to those of the ANC and the government, the IFP refused, in principle, to go along with agreements to which it had not been party.⁷⁰

After a series of bilateral meetings starting in November 1992, the political parties met again on 5 and 6 March 1993 in the Multi-party Planning Conference to hold preparatory talks on a new negotiation forum.⁷¹ To the nineteen participants from CODESA were added seven more delegations, notably the Pan-African

⁶⁸ A Record of Understanding was reached between Mandela and De Klerk in September 1992 to firm up key compromises, laying the ground for resumed negotiations. In November, the ANC's adoption of the document "A Strategic Perspective" reciprocated earlier National Party's concessions by meeting many of its key concerns. See D. Atkinson, "Brokering a Miracle?" in S. Friedman and D. Atkinson (eds), South African Review 7: The Small Miracle, Johannesburg: Ravan Press, 1994, p. 13.

⁶⁹ According to Zulu custom, Zulus carry traditional weapons such as spears, clubs and shields, when attending (imbizos) traditional Zulu gatherings. During the period of CODESA, amid political tensions in South Africa, Zulus carried their traditional weapons to all the IFP rallies. Most of them used such weapons to provoke violence in the townships. In the Record of Understanding, therefore, the ANC and the National Party government agreed to forbid the carrying of traditional weapons in public. The IFP interpreted this as a conspiracy between the National Party and the ANC, as a result of which the IFP threatened to withdraw from the negotiation processes.

⁷⁰ A. Davidson and P. Strand, The Path to Democracy, 1993, p.107.

⁷¹ D. Atkinson, "Brokering a Miracle," 1994, p.21.

Congress and the Conservative Party.⁷²The IFP also sent a delegation.

According to Davidson, in terms of agreements based on sufficient consensus, the negotiations were fairly successful from May until August.⁷³ During this period a number of issues were settled. For instance, on 7 May there was agreement to set the date for elections no later than April 1994, on the condition that transitional structures were in place.⁷⁴

In early June the parties decided to make 27 April 1994 the provisional election date. This date was made permanent as part of a major agreement reached on 2 July.⁷⁵ Additional parts of that agreement concerned:

a time-schedule for the transitional process; that all parties will be represented in a Transitional Executive Council that shall have executive powers during the transition (the amount and reach of its powers was not settled); that elections for central and regional government were to be held simultaneously; that regional boundaries should be delimited prior to elections; that an independent media commission shall be established to ensure all parties of fair terms during the election campaign; that an independent electoral commission will be formed which shall oversee the campaign and shall be the final authority to judge the fairness of the election; that a number of constitutional principles which will bind the constitutional assembly shall be agreed to before the

⁷² A. Davidson and P. Strand, The Path to Democracy, 1993, p. 108.

⁷³ A. Davidson and P. Strand, The Path to Democracy, 1993, p.109.

⁷⁴ Ibid.

⁷⁵ Ibid.

election; and that certain actions must be taken to stop the violence.⁷⁶

Despite these agreements, the forum still faced pressure from the Inkatha Freedom Party to include more delegations. The IFP's demand for the Zulu King to participate, raised at CODESA, remained contentious; other tribal leaders also reacted by demanding their inclusion as well.⁷⁷

↘ Apart from insisting that the Zulu King be included in CODESA, other IFP demands included the issue of federalism. This will be discussed in detail in the next chapter. But in brief, in its proposal for federalism the IFP argued that the ethnic identities of South Africa must be given political recognition, and that this would best be achieved within a federal system.⁷⁸ If the borders of the federal states are drawn so that they correlate with the relative dominance of particular ethnic groups in particular parts of the country, federalism, so the argument ran, would give sufficient recognition to political aspirations of South Africa's different ethnic groups.⁷⁹ Countering this argument, the ANC maintained that a division of the country into strong federal states would result in a superficial division of people with a common nationality. The ANC interpreted the IFP's stance as playing to politicians who seek political prominence by fostering ethnic nationalism.⁸⁰

⁷⁶ Ibid, pp.109-110.

⁷⁷ Chief Patekile Holomisa was quoted by The Natal Witness on 27 May 1992 as criticizing the demand of the IFP for singling out the Zulu King to have special status at the multi-party talks, arguing that the King had never asked for this because he was aware of his many colleagues who are kings in other regions.

⁷⁸ A. Davidson and P. Strand, The Path to Democracy, 1993, p.107.

⁷⁹ A. Davidson and P. Strand, The Path to Democracy, 1993, p. 93.

⁸⁰ Ibid.

Strand notes that the Inkatha Freedom Party made its arguments for federalism by appealing to almost any constituency. He writes that the IFP used the federal option like a deck of cards: which card it chose to play in a certain situation, what argument it presented, depended on who was listening:

A liberal white constituency was assured that federalism would protect their (economic) interests from the redistributive policies of an African National Congress/South African Communist Party-dominated central government; to conservative Blacks, many of whom live under the influence of traditional power hierarchies in rural areas, the message was that federalism would provide them with political power to withstand the influence of a socialist central government run by Xhosa-cum- ANC.⁸¹

✓
NB NB
↓ ↓

The issues concerning the future role of tribal authorities were tackled in the multi-party talks forum by the Negotiation Council. Tribal leaders, who had gained a seat at the table after the IFP had sought a place for the Zulu King, demanded more, insisting on direct representation in the constitution-making body, and at all levels of government. According to Doreen Atkinson, the technical committee's first draft in July 1993 granted no role to tribal leaders.⁸² But when Eastern Cape Chief Nonkonyana supported by Cyril Ramaphosa⁸³ protested, the technical committee responded in part in its constitutional draft of 20 August by listing traditional authorities and indigenous

⁸¹ A. Davidson and P. Strand, The Path to Democracy, 1993, p. 56.

⁸² D. Atkinson, "Principle Born of Pragmatism? Central Government in the Constitution," in S. Friedman and D. Atkinson (eds.), South African Review 7: The Small Miracle; South Africa's Negotiated Settlement, Johannesburg: Ravan Press, 1994, p.115.

⁸³ Cyril Ramaphosa was the leader of the African National Congress's delegation at the negotiating table during the multi-party talks at Kempton Park.

law as one of the exclusive legislative competencies of regional government.⁸⁴

18 → ↘
While the negotiators applied their minds to other matters, Nonkonyana, who emerged as the chief advocate of traditional concerns, was becoming more vociferous, accusing the negotiators of urban bias and extolling the virtues of traditional law.⁸⁵ The Cape, Free State and Transvaal tribal leaders followed this with a document arguing the democratic credentials of traditional leadership and urging the necessity for councils of traditional leaders at local, regional and central level, where a house of traditional leaders should be established at each level.⁸⁶ In addition, in November 1993, Nonkonyana raised the stakes, urging that traditional leaders should be granted 30 per cent of Senate seats and that regional houses of traditional leaders should enjoy delaying powers over legislation for thirty days.⁸⁷ This move was supported by the PAC which felt that traditional leaders should be accommodated in the Senate.

Doreen Atkinson, however, writes that it was not these demands which generated most heat, but the status of customary law, which was now under sustained assault by the women's lobby in the technical committee on human rights. This committee initially proposed a "sunset clause" allowing customary law free rein for a time.⁸⁸ According to Atkinson, some chiefs accepted this, but a group led by Nonkonyana rejected it in such uncompromising terms that an enraged women's lobby persuaded negotiators to drop the compromise and insist that the constitution's equality clause override customary law.⁸⁹

⁸⁴ D. Atkinson, "Principle Born of Pragmatism?" 1994, p.115.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid, p. 116.

⁸⁸ Ibid.

⁸⁹ Ibid.

Women's groups were very concerned by the enhanced protection of the tribal authorities and customary law in the new constitution. They pointed out that:

*customary law of inheritance denies women access to land and property; customary law excludes women from decision making in their homes and in their communities; women married under customary law are perpetual minors; customary law marriages do not have the same status as civil law marriages.*⁹⁰

What this implies is that enshrining customary law in the new constitution would contradict the precepts of democratic values and human rights which advocate a non-sexist society and equal treatment and opportunities for all.

Another problem is that, in African customary law, succession to status and property is premised on the idea of perpetuating the family name. When a woman gets married, she acquires membership of her husband's family and is unable to carry forward her own family name.⁹¹ This disqualifies women, by virtue of their gender, from inheriting either traditional leadership positions or communal family property.⁹²

However, Yvonne Mokgoro argues that while the concerns of women still stand, these are unfounded in that customary law is trumped by the Bill of Fundamental Rights and Freedom.⁹³ Significant in this respect was the creation of the Commission on Gender Equality, and the access it could provide for women to

⁹⁰ The Natal Witness, 10 November, 1993.

⁹¹ T.W. Bennet, A Source-book of African Customary Law for Southern Africa, Johannesburg: Juta, 1994, pp.410-411.

⁹² Ibid.

⁹³ Y. Mokgoro, "Traditional Authority and Democracy in the Interim South African Constitution," in Occasional Papers, Konrad-Adenauer-Stiftung, Johannesburg, September, 1994, p.7.

counter the weight of recommendations by the bodies of traditional authorities.

In November 1993, in order to placate traditional leaders for this defeat, they were offered a role at all levels of government, including guaranteed seats in local government, but not parliament.⁹⁴ Traditional leaders' forums which would advise law-makers, nationally and in the provinces, were provided.⁹⁵ The negotiation team also recommended that the institution of tribal authorities should continue to be protected by the new constitution. The institution would be reformed to meet the requirements of the prevailing democratic dispensation. However, the methods and procedures of incorporating tribal authorities in the structures of the democratic government were not provided in the interim constitution, because of the complexities of the institution of tribal authorities in different provinces in South Africa.

An assessment of the issues concerning the future role of tribal authorities appears not to be an easy task. As illustrated in the preceding discussion, both the Buthelezi Commission and the KwaZulu-Natal Indaba failed significantly to give an outline of how this institution would be included, if at all, in the government structures of a post-apartheid society. Both the Buthelezi Commission and the Indaba did mention that tribal authorities should serve in future local governments. CODESA as well as the Negotiation Council at Kempton Park did discuss the future role of traditional authorities in a democratic dispensation. The issue turned out to be problematic due to the difficulties in finding compromises between the institution of tribal authorities and democratic principles. While provision for the protection and continued existence of chiefly rule were enshrined in the interim constitution, the methods of reforming tribal authorities and how they should be incorporated in the

⁹⁴ Ibid.

⁹⁵ Ibid.

structures of democratic government were not provided. This was partly because of the diversity of the tribal authorities themselves, and partly because of the undemocratic nature of this institution, such as the hereditary form of leadership, which is also exclusively male. These characteristics are in conflict with the Bill of Rights which the post-apartheid government in South Africa adopted in 1994.

However, political parties at the multi-party talks at Kempton Park did agree that decisions regarding the accommodation and representation of tribal authorities in the provincial and local government structures should be taken by each province. What this meant in principle was that "all the decisions regarding the future role of this institution were to be decided by the provincial premiers acting in concurrence with multi-party provincial committees on local government, which have been set up within each of the nine provinces."⁹⁶ In other words, tribal authorities will be accommodated in the structures of the provincial government in accordance with the provisions made in the respective provincial constitutions. South Africa's national constitution only provided for the protection and the continued existence of traditional authorities.

It should also be pointed out, however, that the solution reached by the Negotiation Council concerning the status of the tribal authorities in the democratic dispensation was made in the absence of the Inkatha Freedom Party. The IFP withdrew from the negotiations mainly due to Inkatha's concern over the nature of the process, namely, 'lack of sufficient consensus', and to protest against the Negotiation Council's unwillingness to extend a special invitation to the King of the Zulus to participate in its deliberations; and to show its dissatisfaction about the way the issue of federalism was handled at the Kempton Park talks.

⁹⁶ A. McIntosh, "The Rural Local Government Debate in South Africa," Occasional Papers, Konrad-Adenauer-Stiftung, Johannesburg, September, 1994, p.13.

Chapter Three, therefore, takes a closer look at these two issues.

CHAPTER THREE

THE SIGNIFICANCE OF THE ZULU KING IN KWAZULU-NATAL.

The withdrawal of the IFP from the multi-party talks at Kempton Park was prompted by two reasons, namely, the unwillingness of the ANC and the National Party (NP) to include the Zulu King at the negotiation table, and the lack of enthusiasm by these major political parties to consider seriously the issue of federalism in the democratic South Africa. This withdrawal resulted in a number of consequences. Firstly, the IFP entangled the issue of the King with that of federalism, by making the political role of the King an essential link in its demand for federalism. The IFP used the status of the King to spearhead its demands for federalism. The chapter argues that a federal system would serve as the vehicle through which Buthelezi would attempt to create the 'Indaba Natal' envisaged and so vigorously pursued in 1986 and 1987. It also suggests that Inkatha regarded the King of the Zulus and the issue of federalism as important strategies in the dynamic between reform and revolt. This is understood in the King's attempt to declare KwaZulu-Natal a sovereign state in early 1994.

The IFP's determination to pursue a federal option in KwaZulu-Natal started to gain momentum in the 1980s. This reached a crescendo after the unbanning of the ANC in 1990. Confronted by this situation, ethnic mobilization became increasingly important in Inkatha's strategy. Probably this convinced Buthelezi and his advisers that regional consolidation should become an end in itself.

It is in the criticisms and counter-criticisms between the ANC and the IFP that the significance of the Zulu King in Zulu ethnic politics in KwaZulu-Natal can be understood. As we shall see in the chapter, these political parties accuse each other of monopolizing the King, whenever he appears to associate himself with one of these parties. The King and the institution of tribal

authorities in KwaZulu-Natal are seen by the parties as important allies who can play a vital role in mobilizing political support in rural areas. Consequently, each attempts to monopolise and woo them to its camp. As we have seen, however, the King and traditional authorities, have, for a long time, been aligned with the IFP, due to the influence this party had in the former Bantustan government.¹

This problem has been aggravated by the political gulf which developed between the King of the Zulus, Goodwill Zwelithini and the IFP leader, Chief Buthelezi, soon after the installation of the democratic government in South Africa. The King changed his mind and declared his independence from the IFP. He renounced any involvement in party politics, and committed himself to acting as the unifier of the Zulu people, a move which was welcomed by the ANC. Prior to the commencement of the first non-racial democratic general elections, the King was a close ally of the IFP and was mostly associated with the IFP leadership in their campaign for a federalist state in South Africa.

To explore the political significance of the Zulu King, the chapter highlights the role he played in KwaZulu-Natal a few days before and after the commencement of the first non-racial general election in South Africa in 1994. It also explores the issue of federalism which was one of the IFP's key demands during the multi-party talks for the post-apartheid government in South

¹ According to an article in the New Nation of 30 September 1994, of the more than 290 chiefs in the province, only 25 aligned themselves with the ANC. Pp.6-7.

Africa. This was coupled with the demand for a kingdom/sovereign state in KwaZulu-Natal by King Goodwill. This led many observers to conclude that the King's call for a kingdom was made under the influence of the IFP. In other words, the IFP was using the King's office as a means of achieving a federal state in KwaZulu-Natal. However, as we shall see below, the IFP argued that the King's call was his own initiative, coming after the major political parties refused to extend an invitation to the King to the multi-party negotiations, both to CODESA and to the Kempton Park talks.

A Demand for Federalism.

An assessment of the significance of the King of the Zulus during the multi-party talks at Kempton Park and before the commencement of the April 1994 non-racial general elections in South Africa cannot be done without discussing the issue of federalism in South Africa.

Federalism has been an aspiration of the IFP for a long time, and it was not surprising to see the party insisting on it during the multi-party talks at Kempton Park. Davidson writes that it was the issue of federalism which finally led to a split between Inkatha and the ANC. In a meeting which took place in London in 1979, between Buthelezi and the ANC leadership in exile, Buthelezi presented a list of conditions which the ANC would have to accept if they wished to have him as their ally.²

² Davidson, The Path to Democracy, 1993, p.52.

These added up to a capitulation of the exiled leadership in favour of Buthelezi, something which they refused.³ Among other things, Buthelezi presented to the ANC leadership the following preferences: firstly, he advocated an ideological set-up based on Zulu ethnic nationalism; and secondly, he indicated that he favoured liberal socio-economic policies.⁴ Davidson writes that by so doing Buthelezi was sure to come into conflict with the ANC on an ideological level.⁵

At the start of the multi-party talks at Kempton Park, the IFP referred to the proposals from the KwaZulu-Natal Indaba as a stepping-stone for negotiations. During the multi-party talks, it was not only the IFP which was in favour of federalism. Other political parties like the National Party and the Democratic Party also favoured it. The only difference here lay in the arguments for it. According to Davidson, the IFP's argument was that a country of the size and type of South Africa would get a stronger democracy with a federal system.⁶ Besides arguing for each province to adopt its own constitution, the IFP repeatedly advanced the notion of asymmetry, insisting that provinces could adopt different powers and functions: it even floated as an extreme possibility the idea that parts of the country could be organized as unitary "states" while others were federal.⁷ This

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid, p.91.

⁷ Ibid.

suggests that the IFP was concerned about itself and its envisaged base, the KwaZulu-Natal region.

The IFP urged that provinces should be given autonomy. Commenting on this, Ben Ngubane of the IFP pointed out that provinces as component parts of the South African state should have all the residual powers.⁸ "The central government should have specific powers."⁹ Provinces should initiate and control their own affairs at local level while the central government carried out its specific functions.¹⁰

More explicitly, the IFP insisted on a special and expedited process for approving a constitution for the state of KwaZulu-Natal, recognizing that the region had gone further than any other in reorganizing its territory within the parameters of a federal system.¹¹ Ben Ngubane stressed this point by pointing out that:

Federalism was the essence of the Buthelezi Commission. Its intention was to find out an alternative organizational framework within the South African state, that's also why the IFP moved towards the Joint Executive Authority, a single legislature for KwaZulu-Natal... Other regions may

⁸ Ben Ngubane, Panel Discussion on Regionalism, in Development and Democracy, Johannesburg, 5th July 1993, p.28.

⁹ Ibid.

¹⁰ Ibid.

¹¹ R. Humphries, T. Rapoo and S. Friedman, "The Shape of the Country: Negotiating Regional Government," 1994, p. 160.

*not have embarked on such a path; they may not even be interested in doing so.*¹²

Here, Ngubane was trying to point out that the IFP's aspiration for a federal South Africa was a long-standing one. On the surface, the IFP wanted a territory combining KwaZulu and "White" Natal, as had been its concern back since the Buthelezi Commission and the Indaba talks which advocated federalism in the 1980s.

The argument of the National Party was slightly different from that of the IFP, in that it endorsed the issue of self-determination. The basic assumption was that the South African population consists of a variety of groups that evolved as a result of cultural and historical factors.¹³ Because of a diversity of interests among these groups, each should be guaranteed sovereignty in decisions regarding issues which are defined as "own affairs".¹⁴ To this end, the National Party argued that constitutional factors such as prescribed majorities, the devolution of powers and the right to veto, all within the framework of a federal state, must feature in the constitution so as to give groups sufficient protection.¹⁵

¹² R. Humphries, T. Rapoo and S. Friedman, "The Shape of the Country: Negotiating Regional Government," in S. Friedman and D. Atkinson, South African Review 7, The Small Miracle: South Africa's Negotiated Settlement, Johannesburg: Ravan Press, 1994, p.160.

¹³ Davidson, The Path to Democracy, p. 90.

¹⁴ Ibid.

¹⁵ Ibid.

The African National Congress, however, had a totally different view. It called for a unitary state. The ANC intimated that sovereignty, for example, should belong to the people as a whole and should be exercised through one central legislature, executive, judiciary, and administration.¹⁶ The central state should delegate powers to "subordinating administrative units for purposes of more efficient administration and democratic participation."¹⁷ Institutions such hereditary chiefs should be transformed to serve the interests of the people as a whole. According to Strand, the argument to delegate state powers was that it would increase efficiency, and enhance democratic participation at regional and local levels.¹⁸ Zola Skweyiya of the ANC emphasized this by pointing out that:

*There should be regions in South Africa for purposes of democratization and distribution, and they should have original powers entrenched in the constitution. However, the central government should play quite an important role in the running of the country and there should be some powers that are left to the central government alone.*¹⁹

To the contrary, the IFP argued that the region was the source of power. The IFP maintained that regions would decide

¹⁶ Strand, The Path to Democracy; 1993, p.88.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Zola Skweyiya, "Panel Discussion on Regionalism," in Development and Democracy, Johannesburg, 5th July 1993, p.17.

what to give to the centre, and that asymmetry would be achieved not by the central government handing out different powers to regions, but rather by the latter delegating upwards those powers they were prepared to give to the centre.²⁰

As the negotiations at Kempton Park evolved, differences on the issue of federalism between the ANC and IFP widened. The National Party shifted from its original stance on federalism, a shift which had major repercussions. This also affected the IFP's original stance on federalism. The IFP, finally, had emphasized the economic and the ethno-nationalist arguments equally. The IFP argued that regions should be given greater powers to control their economies than sub-national levels of government in a centralized state.²¹ Probably the IFP's perception was that a likely ANC-dominated government would pursue socialist policies, hence the need for sufficient powers for the federal provinces in order to block radical redistributive policies.²²

From an ethno-nationalist perspective, the IFP urged that specific ethnic identities of South Africa should be given political recognition, and that this would be achieved within a federal system.²³ The IFP anticipated that if the borders of the

²⁰ R. Humphries, T. Rapoo and S. Friedman, "The Shape of the Country: Negotiating Regional government", 1994, p.161.

²¹ Davidson, The Path to Democracy, 1993, p.93.

²² Ibid, p.94.

²³ Davidson, The Path to Democracy, 1993, p.93.

federated regions were drawn so that they correlated with the relative dominance of some ethnic groups in parts of the country, sufficient recognition would be given to the political aspirations of South Africa's different ethnic groups.²⁴ In its ethnic rhetoric directed particularly at its Zulu constituency the IFP has, obviously, portrayed federalism as a constitutional system which was necessary to give sufficient political recognition to the Zulu nation, supposedly under the leadership of the IFP. Hence its demands for the representation of the King and KwaZulu Government at CODESA.

In response to the IFP's argument, anti-federalists such as the ANC maintained that a federation would not give the party which gains the majority of votes on a national level sufficient power to rule.²⁵ This is also the view of Ralph Lawrence, who regards federalism as a defensive measure.²⁶ "This acts as a bulwark against undiluted majority rule by transferring uncontrovertible decision-making powers to regional authorities."²⁷ Nevertheless, Lawrence points out that for those hostile to big government and who wanted to bring government closer to the people, federalism offers an optimal solution.²⁸

²⁴ Ibid.

²⁵ Davidson, The Path to Democracy, 1993, p.94.

²⁶ R. Lawrence, "Why I am not a Federalist," in Development and Democracy, Johannesburg, 5th July 1993, p.11.

²⁷ R. Lawrence, "Why I am not a Federalist," p.11.

²⁸ Ibid.

The ANC held the view that only with a strong central government could wealth be created and distributed so as to address the socio-economic injustices which were created by apartheid.²⁹ According to Zola Skweyiya, the ANC's concern was the question of development, because the development of the country has not been equal.³⁰ "There are regions which are very underdeveloped and there are regions that are overdeveloped. The central government should be given powers in order to equalize that status quo."³¹ Peter Mayende of the Pan-Africanist Congress (PAC) also supports the ANC's view. Mayende argues that federalism would create a bureaucratic monstrosity which would be a serious drain on the national economy.³² Mayende points out that, "it will replicate the present system where you have so many departments."³³

While the ANC rejected federalism and decentralization as a strategy to retain privilege, the party admitted that there was a need to create new forms of regional governments which addressed the problems of apartheid settlement patterns and current uneven development across the country.³⁴ To this end,

²⁹ Ibid.

³⁰ Zola Skweyiya, "Panel Discussion on Regionalism," 5th July 1993, p.17.

³¹ Ibid.

³² Peter Mayende, "Panel Discussion on Regionalism," in Development and Democracy, Johannesburg, 5th July 1993, p.31.

³³ Ibid.

³⁴ D. Irvine, "Federalism and the New Constitution," in A. Johnston, S. Shezi and G. Bradshaw, Constitution-Making in the New South Africa, London: Leicester University Press, 1993, p.22.

local and regional government should be seen as potential development agencies. "They should be able to exercise some leverage over choices among competing priorities, although the central government would have some control over the issues that are vital to the conduct of national policy and to ensure uniformity of standards."³⁵ According to Irvine, the goal of such policies would be:

*To create the basis for the country's reunification by incorporating the Bantustans; to promote national reconciliation and establish the basis for a more just and equitable allocation of resources, and rectify the legacy of apartheid; to foster economic growth, democratic government and empower communities, and to develop efficient and effective structures for planning and catering for rapid urban growth, service delivery and support for smaller local authorities and rural areas.*³⁶

Given the great disparities between the different proposals, it was striking that each of the parties claimed that its constitutional model was based on democratic principles. Furthermore, each party argued that its opponent's proposals, for one reason or another, were not democratic in principle. Each party's proposals gave expression to democratic rule if all citizens were granted an equal vote in recurrent elections for

³⁵ Ibid.

³⁶ D. Irvine, "Federalism and the New Constitution," 1993, p.23.

a representative legislative assembly; if a Bill of Rights were to guarantee respect for equal civil and political rights of all citizens; and if there were mechanisms through which the citizens could remove from office an elected government which breaches its mandate. If a party's proposals contains these principles, it cannot simply be dismissed as undemocratic by those who favour a different type of democracy. Thus, the core of the debate on constitutional models for South Africa was not about democratic versus non-democratic proposals, but about the type of constitution that can best serve the long-term interests of the people as a whole.

Due to intense dissatisfaction with the constitutional debates on federalism during the multi-party talks at Kempton Park, the IFP withdrew from the negotiations on 2 July 1993.³⁷ On 17 July Buthelezi announced that the IFP would not return. He insisted on a new agreement on regions, granting them a degree of independence which neither the South African government nor the ANC would accept.³⁸ This was the period when the King of the Zulus was in agreement with the IFP leadership in its campaign for federalism. Consequently, many South Africans thought that the King had aligned himself with the IFP in its campaign to resist the April 1994 general election.

³⁷ D. Atkinson, "Brokering a Miracle? The Multi-Party Negotiation Forum," in S. Friedman and D. Atkinson, (eds), South African Review 7, The Small Miracle: South Africa's Negotiated Settlement, Johannesburg: Ravan Press, 1994, p.31.

³⁸ Ibid.

The Status of the King Before the April 1994 General Election.

The neutral political stance which the King of the Zulus took after the 1994 April's general elections, is not the stance he took before. Previously, he was a very close ally of the IFP, and a bitter enemy of the ANC. However, the change of political order in this country enabled him to reconsider his relationship with the IFP. The King's present status has to be understood against the background of the political activities that took place in this province prior to the general elections. These political activities have their roots in the 1970s, when the King fought to be independent from Inkatha. This has already been discussed in Chapter One.

Davidson writes that "Inkatha's ethno-nationalist ideology would have been impossible without the backing of the Zulu Royal House."³⁹ Mangosuthu Buthelezi is a political advisor to the King, a position traditionally held by the Chief of the Buthelezi tribe. While Buthelezi, through Inkatha, claimed to represent the Zulu people politically, the role of King Goodwill Zwelithini had been to unite Zulus culturally, and hence to avoid involvement in politics.⁴⁰ King Goodwill had, however, not been able to keep an independent stance between Inkatha and its political opponents, but tended to support the view that a loyal Zulu owed political allegiance to Inkatha.

³⁹ A. Davidson and P. Strand, The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, 1993, p.55.

⁴⁰ Ibid.

Despite outward shows of unity, there was little affection between the King and Buthelezi. Buthelezi had publicly humiliated the King in the 1970s after he had shown worrying signs of independence.⁴¹ Since then, Zwelithini, mindful of the fact that Buthelezi's IFP controlled his only source of income, had been kept on a tight rein by KwaZulu's ruling party.⁴² He was a very useful tool, since he had more symbolic support among the Zulu speakers than the IFP itself or its leader.⁴³ Inkatha's leaders knew that their prospects of widespread support on any issue depended on ensuring that the monarchy was seen to back it.

The King's activities were biased toward the Zulus who aligned themselves to Inkatha. This bias started to become apparent in the 1980s, when political turmoil in townships across the country started to reach considerable heights. This came as a result of the competition between the United Democratic Front⁴⁴ which formulated demands for radical changes to the political system of this country, and the government and its collaborators, Inkatha in particular. Inkatha was a target because of its opposition to armed struggle. In this conflict the King aligned

⁴¹ D. Atkinson, "Brokering a Miracle? The Multi-Party Negotiating Forum," 1994, p.38.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ The United Democratic Front (UDF), formed in 1983, represented affiliated civic associations on a national level, and formulated demands for radical change to the South African political system. It was an ally of the ANC in that it was committed to the Freedom Charter, the document in which the ANC alliance had formulated its ideological principles in 1955.

himself to Inkatha. In 1985, amid this conflict, Mare' quoted the King as saying:

*My people when I say to you today that we cannot tolerate intimidation; when I command you to rout out those among you who undermine our national unity as a Zulu people; when I say to you enough is enough, we will not tolerate any further inroads into our dignity by the ANC Mission in Exile, by the UDF or by COSATU.*⁴⁵

Partiality towards Inkatha continued up to the 1990s when the negotiation process for the transition to democracy began. In 1991, at the first sitting of CODESA the IFP demanded including the King in the negotiations. Buthelezi argued that granting a specific role to the King at CODESA entailed the representation of the Zulu people because the IFP was a non-racial national political party with himself as leader.⁴⁶ However, this was rejected by the ANC, as I have discussed.

After the IFP's subsequent withdrawal from the Kempton Park negotiations, Buthelezi's rhetoric and that of the King became more strident as the IFP mobilized in KwaZulu-Natal to resist the forthcoming elections. Chiefs barred polling activities from

⁴⁵ King Goodwill Zwelithini, address to the Zulu nation, Nongoma, 16 June 1986, cited in G. Mare', "Last Chance, Limited Options or No Go?", New Frontiers: The KwaZulu-Natal Debates, Indicator SA, October 1987, pp. 18-21.

⁴⁶ A. Davidson and P. Strand, The Path to Democracy, 1993, p.100.

their areas, and the violence increased.⁴⁷ In one of the *imbizos*,⁴⁸ the King was quoted as saying: "there cannot be elections before it is accepted that KwaZulu will be included in a future South Africa under a constitution endorsed by the people of KwaZulu-Natal."⁴⁹ He pointed out that the Zulus were only interested in negotiating about a future South Africa if KwaZulu-Natal was to be included as a specific region.⁵⁰ Furthermore, the IFP and the King rejected the 1993 interim constitution saying that it was just the National Party in cahoots with the ANC and the South African Communist Party (SACP) who decided to strip Zulus of their kingdom.⁵¹ The problem here is that it was not clear what the King was referring to as the Kingdom, because there had been no kingdom in KwaZulu, except the KwaZulu Bantustan.

At a meeting with the then State president F.W. De Klerk, at the Union Buildings, the King rejected the proposal for a single-ballot system which was enshrined in electoral law, arguing that this would not allow people to have a regional voice about the land of their ancestors as well as about what they want at the national level.⁵² Neither the King himself nor the

⁴⁷ D. Atkinson, "Brokering a Miracle?", 1994, p.38.

⁴⁸ An imbizo is a traditional gathering of the Zulus, where tribal matters are discussed.

⁴⁹ The Natal Witness, 12/07/1993.

⁵⁰ Ibid.

⁵¹ The Natal Witness, 12/07/1993.

⁵² "Zwelithini laid his claims to De Klerk at the Union Buildings", The Daily News, 19/01/1994.

traditional leaders who serve under him would advise the Zulu people to participate in the proposed April 1994 election while the interim constitution remained, Zwelithini stated.⁵³

Concerning violence, the King's position vacillated between a more neutral position between the ANC and Inkatha supporters, and one favouring Inkatha.⁵⁴ In a united effort by high-ranking Zulu members of the PAC, the ANC and Inkatha, a "Concerned Group of Zulus" was formed with the King as the symbol of unity.⁵⁵ According to Davidson, in an address to Inkatha members in May 1993, the King urged: "I know some of you carry weapons and are involved in violence. Enough is enough. Stop the killings."⁵⁶

Despite such appeals, most of the King's speeches were inflammatory, especially at most of the IFP rallies after the party's withdrawal from the Kempton Park's negotiations. The Weekly Mail reported that, at an Inkatha rally in mid-July 1993, the King lashed out with thinly veiled threats of the Zulu warriors' potential to cause war and destruction in South Africa.⁵⁷ According to Chothia's article in The Weekly Mail, the rally in Durban in July gathered a crowd of 60,000. The King's chief military commander explained the violence between Inkatha

⁵³ Ibid.

⁵⁴ A. Davidson, and P. Strand, The Path to Democracy, 1993, p.55.

⁵⁵ Ibid.

⁵⁶ Ibid, pp.55-56.

⁵⁷ F. Chothia, "King wants a Kingdom" in The Weekly Mail, 9-15 July, 1993, p.19.

and the ANC by referring to a bellicose "African culture". He called on the South African Police to go and fish for a few days so that Inkatha and the ANC could be left alone to fight their own war. Claiming an army of half a million, the commander was sure Inkatha would come out of such a fight victorious.⁵⁸ "President Bush brought peace in the Middle East through war; hence IFP and ANC must do the same."⁵⁹

On 14 February, at a meeting with de Klerk in Durban, the King demanded a Kingdom/sovereign state of KwaZulu-Natal.⁶⁰ This was perceived by many South Africans to be threatening secession. In this meeting the King stated that he was preparing to promulgate a constitution of KwaZulu-Natal because the interim constitution did not offer any space in which Zulus can survive as a nation and had no legitimate right to impose itself on them.⁶¹ The Natal Witness quoted the King as saying:

*I am preparing myself to promulgate the constitution of Kwazulu-Natal which will establish a monarchy modelled after the best examples of democratic and pluralistic monarchies in the world.*⁶²

⁵⁸ F. Chothia, "The Zulu king picks up the IFP spear" in The Weekly Mail, 16-25 July, 1993, p.16.

⁵⁹ Ibid, p.2.

⁶⁰ The Natal Witness, 15/02/1994.

⁶¹ Ibid.

⁶² Ibid.

A number of concerned people in KwaZulu-Natal felt that the King's call was made at the wrong time, because, everybody was then looking forward to the first non-racial democratic elections in South Africa. For instance, a fifty-one year old priest, Rev. Magubuludu of Imbali was quoted by the Natal Echo as saying:

*Time for that demand is long gone. Because of the time factor, the demand is now inappropriate. This call should have been issued when Lesotho and Swaziland became independent.*⁶³

The Rev. Magubuludu pointed out that the time of this demand makes it clear that it was motivated by political forces who wanted to derail the elections. By this he meant that the King was acting under the orders of the IFP.

Dumisani Makhaye of the ANC in KwaZulu-Natal, for example, also condemned the King for suggesting any act of secession. He warned that by so doing the King was actually unleashing forces that would destroy the Zulu monarchy.⁶⁴ He warned that by openly siding with the IFP, the King may achieve in a matter of weeks what the British and colonialism failed to achieve in a century, "the demise of the Zulu kingdom".⁶⁵ The Natal Witness quoted him as saying:

⁶³ The Natal Echo, 17/02/1994.

⁶⁴ D. Makhaye, "Zwelithini's Demand for a Zulu Kingdom" in the Natal Witness, 13/04/1994. Dumisani Makhaye is the ANC's Southern Natal Media officer.

⁶⁵ Ibid.

the recent actions and pronouncements of the King in Pretoria, Durban and Ulundi have created conditions that have divided the Zulu people as never before. Zulus are today divided as they were in the last century during the Battle of Princes, between the then Prince Cetshwayo and Prince Mbuyezi at Nondakusuka. Literally thousands of Zulus were killed in that battle. The surest way to destroy a monarch is to allow it to engage itself in party politics.⁶⁶

Makhaye was dismissive of the King's action. He pointed out that a king is not synonymous with a kingdom. A king only occupies a special position in a kingdom. A kingdom also includes princes and princesses, chiefs and headmen, and subjects, most of whom have distanced themselves from what they perceive as the IFP's manipulation of the King. Makhaye pointed out that the King never even consulted the most important constituencies of the Zulus, before making such a call. By making the King its virtual spokesman and organizer, the IFP was forcing the Zulus to choose between the King on the one hand, and their unity and freedom on the other.⁶⁷

Makhaye made it clear that the King should be apolitical and above party politics. The position of the King should be clearly defined in the KwaZulu-Natal provincial constitution which was

⁶⁶ D. Makhaye, "Zwelithini's Demand for a Kingdom," The Natal Witness, 13/04/1994.

⁶⁷ The Natal Witness, 13/04/1994.

to be drawn up by the democratically elected provincial constituent assembly. That would ensure that the well-being of the King does not depend on the whim of any political leader but it would be entrenched in the constitution.⁶⁸ Makhaye pointed out that no political party in Natal could be so naive as not to recognize the existence of the King and the Zulu kingdom's traditional structures as a reality. He argued that the interim constitution, which the IFP rejects, guarantees the position of traditional leaders.⁶⁹

Not all the people in KwaZulu-Natal condemned the King's call for a sovereign KwaZulu-Natal. Some supported him. According to a survey conducted by a Natal Witness phone-in, the King received more support from White people than Blacks. Out of forty-nine callers in two hours, twenty-one Whites opted for a sovereign state and most said they would not like to live under an ANC communist government.⁷⁰ Seventeen Black callers vehemently rejected the King's call for an independent state, saying the he was being used for political purposes by the IFP leader, Buthelezi.⁷¹

⁶⁸ By this, Makhaye was referring to the incidents which took place in the 1970s, when Inkatha singled out the King, simply because he had decided to take a line independent from Inkatha. The King was literally chased away from the KwaZulu Legislative Assembly and his salary was halved. See Chapter Two for more information.

⁶⁹ Makhaye, "Zwelithini's Demand for Kingdom," The Natal Witness, 13/04/1994.

⁷⁰ The Natal Witness, 18/02/1994.

⁷¹ Ibid.

The turning point came a few days before the commencement of the first non-racial democratic general election, when the IFP announced that it would take part. This came about supposedly as a fruitful result of mediation by a Kenyan economist, Professor Washington Jalango Okumu, who shuttled between the ANC, the National Party and the IFP. According to Atkinson, Okumu was not appointed to an international team but came along to help.⁷² He stayed on and brokered a settlement aided by his association with Buthelezi. "Less than a week before the election, Buthelezi agreed to lead the IFP into the contest in exchange for a concession recognizing the constitutional position of the King of the Zulus and the Kingdom of Kwazulu, which was rushed through Parliament the next Monday, and a commitment to pursue international mediation after the election."⁷³

For more than a year, Buthelezi had rejected all attempts to lure him into the negotiation process, raising new demands whenever agreements seemed near. Previously, before Okumu, mediation by Henry Kissinger and Lord Carrington had failed to persuade the IFP to change its stance and participate in the general election.⁷⁴ By April, it seemed either that Buthelezi wanted far more regional powers than the ANC and the then South African government were willing to concede, or that he would not

⁷² D. Atkinson, "Brokering a Miracle?", 1994, p.38. See also M. Cassidy, A Witness for Ever: The Dawning of Democracy in South Africa, Stories Behind the Story, London: Holder and Stoughton, 1995, pp. 1-50.

⁷³ Ibid.

⁷⁴ Ibid.

join the process unless the main parties conceded that everything they had done from at least the Record of Understanding onwards be cancelled.⁷⁵

Apart from international mediation which offered a remedy for the IFP to participate in the 1994 April general election, other separate deals were made in bilateral talks between Nelson Mandela and the King of the Zulus;⁷⁶ and between F. W. De Klerk and the King.⁷⁷ These deals are also regarded as catalysts which helped the IFP to change its stance and to agree to participate in the April 1994 election. As will be discussed below, the deals provided the King with many potential privileges in the democratic dispensation. The IFP regarded these as a victory, probably because the party believed that the King belongs to the IFP. But that perception was mistaken, because these deals marked the beginning of the erosion of the relationship between the King and the IFP. The privileges included a new status granted the King by Mandela and the Ingonyama Trusteeship which F.W. De Klerk conferred on the King. These privileges gave the King the confidence to declare his independence from any party, including the IFP.

⁷⁵ D. Atkinson, "Brokering a Miracle?", 1994, p.39.

⁷⁶ The Sunday Nation, 10/04/1994, p.3.

⁷⁷ The Natal Witness, 24/05/1994.

The Status of the Zulu Monarchy and the Ingonyama Trust.

What Mandela offered the King

Although the then South African government and the ANC downplayed the issue of federalism in the various multi-party talks, they became more concerned when King Goodwill Zwelithini, under the influence of the IFP, started demanding a kingdom of KwaZulu-Natal, an act which was interpreted by many South Africans as a move towards secession. Nelson Mandela, in his capacity as the ANC leader, took the initiative to address some of the King's fears by offering him certain privileges as part of assuring him of his status in the democratic dispensation. The Sunday Times reported that in the meeting that took place in Durban between the King and Mandela, in early April 1994, Mandela handed a memorandum to the King, which defined his status in a post-apartheid South Africa. According to this newspaper, the memorandum contained eight concessions. (See the Appendix.)

The new role that Mandela offered the King in the democratic dispensation was more dignified than the status he had in the former KwaZulu Bantustan. As already addressed in Chapter One, the role and the status of the King in former KwaZulu was overshadowed by Chief Buthelezi. This proposed new status was part of reestablishing the monarchy in the democratic dispensation, an act which the King himself welcomed. In addition to what Mandela offered the King, amendments were made in the

interim constitution, providing for special recognition and protection of the Zulu monarchy in the democratic dispensation.⁷⁸

These concessions, however, caused an outcry among other traditional leaders and kings in South Africa.⁷⁹ They demanded that the privileges which were extended to the King of the Zulus be extended to them as well. Patekile Holomisa, the president of CONTRALESA was quoted by The Natal Witness as saying: "it will be scandalous if other kings and paramount chiefs are not extended the same constitutional role in a future government."⁸⁰ He pointed out that CONTRALESA had been making the same demands, but the message was, "you must have the propensity for violence if you want your demands to be met."⁸¹

⁷⁸ See The Interim Constitution of the Republic of South Africa, 1993, Act No. 200 of 1993, Section 160.

⁷⁹ The Natal Witness of 27/03/1993 reported that there are ten kings in South Africa. The Transkeians have five main kings, namely, King Buyelekaye Dalindyebo of the abaThembu; King Mpondomini Sigcau of Eastern Pondos; Nyangilize Ndamase of Western Pondos; Xolilizewe Sigcau of Amagcaleka; Kaiser Matanzima rules of the Western abaThembu; the Ciskeians have King Maxhobayakhawuleza Sandile of amKharhabe; Ndebeles have two royal families, the Mahlangas and the Mabenas; the Pedi have one, the Sekhukhuni Royal Family; the Swazis recognizes King Mswati of Swaziland; the Sothos have two royal families, the Mothas for the Abatlokwa, and the Mopeli for the Abakwana; the Vendas have one, King Thovhele Ramabulana. The Shangane royal family had been marginalized by the authorities in the Gazankulu homeland, but currently, there are proposals to revive it.

⁸⁰ The Natal Witness, 22/04/1994.

⁸¹ Ibid.

The Ingonyama Land Trust Act

Apart from the offers by Mandela, other privileges were given to the King by the then State president, F.W De Klerk. Two days before the commencement of elections on 27 April 1994, De Klerk authorised the transfer of three million hectares of land to the custodianship of King Goodwill Zwelithini, The KwaZulu Ingonyama Trust Act of 1994, (Act No.3 of 1994). This Act makes the King sole trustee over all the land in the former KwaZulu Bantustan.⁸²

This transfer became the centre of debate in political circles in South Africa. Reports spread that the Ingonyama Trust was a secret deal aimed at drawing the IFP into the general election. But this was dismissed by the then State President De Klerk as false. The IFP leader, Chief Buthelezi also denied these allegations, arguing that the intention of the Ingonyama Trust was to return the land to the tribes and communities to whom it originally belonged before it was taken away after the Zulu conquest.⁸³ Buthelezi pointed out that King Goodwill is not the owner of the land, and that it was the Zulu tradition that all land belongs to the King, who holds it in trust for the people. The King cannot dispose of it in terms of the Act.⁸⁴

⁸² The Sunday Nation, 21/05/1994.

⁸³ The Natal Witness, 21/05/1994.

⁸⁴ Ibid.

One of the IFP's chief negotiators, Walter Felgate, said that the legislation pertaining to the Ingonyama Trust was an enabling mechanism designed to secure the position of the King.⁸⁵ In a similar vein, the IFP's Velaphi Ndlovu, who was present when the Bill transferring the land was discussed, said the deal was neither secret nor fraudulent. On the contrary:

*This was done in broad daylight and within the framework of the law. Former President De Klerk was acceding to the King's demand for his land and his Kingdom.*⁸⁶

Velaphi Ndlovu added that:

*We did not get federalism which we wanted but because we got something more important, including an understanding that discussions on federalism would continue. It was the greatest achievement we ever made. We were extremely proud that the Bill passed by the Kwazulu government was on returning land to his majesty and the Zulu people.*⁸⁷

Despite the IFP's joy at victory, the transfer of land in terms of The Kwazulu Ingonyama Trust Act of 1994, has created a twin power system in the province of KwaZulu-Natal. The one is hereditary, feudal and rests on patronage. The other is modern, democratic and depends on regular election. The problem is how

⁸⁵ The Natal Witness, 21/05/1994.

⁸⁶ The Natal Witness, 23/05/1994.

⁸⁷ Ibid.

well the two systems can work together. While this question remains unanswered, the Trust has been hailed by the traditionalists, because it did preserve the KwaZulu feudal system in which chiefs derived their power from control over land and the King was the chief of chiefs.⁸⁸ The King could have received no better incentive to throw in his lot with the new order.

While the ANC hotly denied⁸⁹ that it had known anything about the Trust, the IFP insisted that it did, a claim which seems plausible. After all, a key term of the deal which ended Buthelezi's resistance was recognition of the status of the King. This is what the Trust assured, and it seems reasonable to suggest that the ANC might have been prepared to give it to rid the transition of its most serious obstacle and to prevent the KwaZulu-Natal election from becoming a bloodbath.

The Stance of the King After the April 1994 General Election.

The installation of the Government of National Unity brought with it winds of change in the ethnic politics of KwaZulu-Natal. A new political order developed as the King of the Zulus declared his independence from party politics. The King wanted to resume his role as the unifier of all the Zulu people irrespective of their political party affiliations. This move was welcomed by the ANC. To achieve his new role, King Goodwill replaced his former

⁸⁸ D. Atkinson, "Brokering a Miracle?," 1994, p.40.

⁸⁹ The Natal Witness, 26/05/1994.

KwaZulu bodyguards with members of the South African Defence Force.⁹⁰ Probably the King did this to keep himself independent from the IFP. The crucial point here is that the Defence Force is neutral; they do not serve any political party, but are meant to act in the national interest.

The Mail and Guardian reported that Zwelithini was determined to ensure that his chiefs adopted a non-partisan role in the ANC-IFP conflict. The newspaper recounted that the King fired the first salvo in this direction when he attended the inauguration ceremony of a chief in Mtunzini shortly after the April poll and voiced concern that some chiefs were abusing their powers.⁹¹

The Mail and Guardian revealed that, while Zwelithini had no plan to publicly denounce Buthelezi, he would strip him of his status as a traditional prime minister of the King, by excluding him from the Royal Council that he planned to form in order to advise him on political and other issues.⁹² Because Buthelezi is a leader of a particular political party, he cannot serve in the royal council whose objective is to unite all Zulus irrespective of their political party's affiliations. According to The Mail

⁹⁰ The Weekly Mail and Guardian, Vol 10, No 24, June 17 to 23, 1994, p.4.

⁹¹ Ibid.

⁹² Ibid.

and Guardian, a senior prince⁹³ who had played a pivotal role in encouraging the King to break away from Buthelezi was a strong candidate for the post of traditional prime minister.⁹⁴ As already addressed in Chapter One, Prince Mcwayizeni was the one who had sided with King Goodwill in a power struggle which erupted between the Royal House and Buthelezi in the early 1970s after the death of Zwelithini's father, King Cyprian Bhekuzulu in 1969.

The King told the ANC delegation at one of their meetings in June 1994 that he did not want to return to the tyranny and terror he had faced for the past twenty-four years.⁹⁵ By this the King was referring to the humiliation he had suffered at the hands of Inkatha and Buthelezi in the 1970s, when his salary was once halved after showing a sign of acting independently. (See Chapter One for more details).

The IFP interpreted the King's move to have been masterminded and initiated by the ANC so as to win him into its camp. According to The Weekly Mail and Guardian, the IFP leader,

⁹³ Buthelezi's arch foe in the royal house is Prince Mcwayizeni, brother of the late King Bhekuzulu, King Zwelithini's father, and therefore the most senior in the royal house. The Natal Witness of 14/04/1994 reported that Prince Mcwayizeni had always resented the power Buthelezi had over the King. The Prince and his family fled their Nongoma home fearing for their lives after joining the ANC few years ago. According to The Natal Witness, the ANC sources said Prince Mcwayizeni believed that he, not Buthelezi, should be the King's senior advisor or traditional prime minister, because of his lineage.

⁹⁴ Ibid.

⁹⁵ Ibid.

Chief Buthelezi, questioned the King's loyalty to the Zulu nation.⁹⁶ He warned that there could be a crisis if the King and he split:

*I have already spoken publicly about the ANC's attempts to use members of the royal house to create additional uncertainty and political difficulties in the province of KwaZulu/Natal. The efforts to create cleavages between his majesty and me are naive, counter productive and will generate divisions, tensions and crisis within the Zulu nation, rather than fostering the spirit of reconciliation.*⁹⁷

Buthelezi added that the ANC had never been willing to give anything in terms of autonomy for KwaZulu-Natal, nor had it been willing to recognise the unique importance of His Majesty.⁹⁸ Anything it gave was a hard fought concession to the IFP. He also pointed out that the ANC was not willing to concede more than they did to protect the King's status in KwaZulu-Natal.⁹⁹ Probably here Buthelezi was referring to the past, because in the democratic dispensation the status of the Zulu King was protected and recognized by the interim constitution. In addition, other

⁹⁶ Ibid.

⁹⁷ The Natal Witness, 20/06/1994.

⁹⁸ Ibid.

⁹⁹ Ibid.

privileges were only given to the Zulu King, and not to the other nine kings in South Africa.¹⁰⁰

In June 1994, Buthelezi seized an opportunity at an IFP victory rally at Umlazi to reveal to the people how the former KwaZulu government had supported the King. He stated that the KwaZulu government had spent almost R7 million on Zwelithini's five palaces, more than R2 million to provide him with labour, more than R500,000 to assist him in developing his farm undertakings, and that R4 million had been spent on securing the King's personal position.¹⁰¹ Buthelezi projected himself as being more powerful than Zwelithini, saying that he had elevated the monarchy to a position other Zulu kings had failed to achieve.¹⁰² He warned that if there were a showdown between him and the King, he really had nothing to fear because it would damage the King more than himself.¹⁰³ He also pointed out that some people were ascribing the IFP's surprisingly good performance in the April election to King Goodwill's perceived support for the party.¹⁰⁴ He vehemently dismissed such reports as untrue.¹⁰⁵ Buthelezi

¹⁰⁰ See the appendix on "What Mandela offered the Zulu King."

¹⁰¹ The Weekly Mail and Guardian, Vol 10, No 24, June 17 to 23, 1994, p.4.

¹⁰² Ibid.

¹⁰³ The Daily News, I June 1994.

¹⁰⁴ Ibid.

¹⁰⁵ Buthelezi was dismissing the speech made by Blade Nzimande of the ANC who was quoted by The Daily News on 16 June 1994 as saying that the success of the IFP strategy was based on two main pillars, the first being the support it got from the central apartheid state that bolstered the KwaZulu Bantustan. Coupled with this was the state's covert funding of Inkatha's

argued that the people were voting for the IFP and not for the King.¹⁰⁶ Buthelezi maintained that even if the King sacked him, he would continue to perform his duties as the King's traditional prime minister.¹⁰⁷ Buthelezi claimed that he was born to inherit the post.¹⁰⁸

By contrast, the ANC rallied to the defence of the King, promising to protect him in the face of Buthelezi's insults by ensuring his rights in the national constitution, including a guarantee that the IFP controlled KwaZulu-Natal Provincial Legislature would not have the power to withhold his salary.¹⁰⁹ The ANC made these remarks after Buthelezi's speech at an IFP victory rally at Umlazi on 13 June 1994, where he told IFP supporters that the budget to maintain the King would come from the KwaZulu-Natal legislature.¹¹⁰ What Buthelezi was implying was

violent activities and hit squads in KwaZulu. The IFP's second pillar was that of subjugating the King to its own political agenda by threatening him with salary cuts and the like whenever it seemed he was developing an independent agenda. Nzimande pointed out that, by locking the King within the IFP structure, the IFP managed to position itself as the political custodian of the Zulu nation, and in this way secured the vote of many Zulu people in rural areas. Nzimande added that the verbal outpourings of Chief Buthelezi at recent IFP rallies about the ANC creating divisions between Buthelezi and the King were the sharpest expressions of the IFP's fears. The IFP realized that it now had to act as a political force without the support of its two pillars.

¹⁰⁶ Ibid.

¹⁰⁷ The Weekly Mail and Guardian, Vol.10, No.24, June 17 to 23, 1994, p.4.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ The Natal Witness, 14/06/1994.

that if the King breaks away from the IFP, the IFP would withhold his salary.

In response to Buthelezi's threats, Blade Nzimande of the ANC stated that:

*We regard this as an insult to his majesty. Each time the King is perceived by the IFP to be acting outside of its leadership and sectarian interests, the issue of his salary is always thrown up. We are determined not to allow a repeat of past humiliations of the King by the IFP.*¹¹¹

The response of Dumisani Makhaye of the ANC was that Buthelezi should understand that the days when the IFP was the only party which had access to the King were gone forever. Proud Zulus cannot allow a situation where the King's remuneration depended on the whims of any political leader.¹¹² He therefore demanded that the status of the King and his remuneration be constitutionally entrenched.

The preceding discussion indicates that King Zwelithini is now trying to achieve neutrality and attempting to distance himself from party politics. However, it appears that the IFP is trying everything possible to maintain its control over him. Probably the explanation for this is that without the backing of the King, the IFP cannot fully achieve one of its original

¹¹¹ The Natal Witness, 14/06/1994.

¹¹² Ibid.

objectives, namely, the consolidation of Zulu ethnic consciousness. The IFP effort to woo the King to its camp is evident in its draft constitution proposals for KwaZulu-Natal which were released on 3rd October 1995. In order to explore this, and other legislation which defines the status of the institution of tribal authorities in post-apartheid society, Chapter Four takes a closer look at the role of the King of the Zulus and his tribal chiefs in the structures of democratic government at the provincial level.

CHAPTER FOUR

THE INCORPORATION OF TRIBAL LEADERS IN THE PROVINCIAL GOVERNMENT OF KWAZULU-NATAL.

The issue of the continued recognition and protection of the institution of tribal authorities in South Africa at large was provided for in the interim constitution as a result of recommendations by the constitutional assembly at the multi-party talks at Kempton Park. However, nothing was proposed concerning the method of incorporation. The constitutional assembly recommended that the procedure for incorporating the tribal authorities in the structures of provincial government should be devised by the premiers in consultation with the provincial councils which were set up in all the provinces in South Africa.¹ Each province should decide the composition of a provincial House of Traditional Leaders, depending on the number of tribal leaders in a province. A report of the Commission on Provincial Government showed the national distribution of tribal leaders: the Free State has 15, Northern Province has 194, Mpumalanga has 43, North West has 73, Eastern Cape has 179 and KwaZulu-Natal has 290.² Besides this, the nature and the influence of tribal authorities over their communities also differ from province to province. In some provinces tribal leaders are more powerful and

¹ A, McIntosh, "Rural Local Government Debate in South Africa: Centrist Control or Local Development", in Seminar Report: The Role of Traditional Leaders in Local Government in South Africa, Durban: 27-28 October 1994, p.21.

² Annexure A "Discussion Document on Rural Local Government," October 1994.

more politicized than in others. In KwaZulu-Natal, tribal leaders are active in Zulu ethnic consciousness and party politics, as I have discussed.

The interim constitution of the Republic made provisions to lay down legislation to provide a common ground for starting to incorporate tribal authorities in the structures of democratic government at all levels of government, namely, national, provincial and local. But since each province would determine the composition of the House of Chiefs at the provincial level, it would be required to provide for this in its own provincial constitution.³

The task of formulating such legislation in the province of KwaZulu-Natal has been controversial. Some political parties seized an opportunity to make this issue a mobilizing strategy for political support and recruitment. As we shall see later in the chapter, the ANC and the IFP, the major political parties in this province, disagree on a number of issues concerning the status and the powers of the tribal leaders in provincial government, particularly on the role of the King of the Zulus. The ANC accuses the IFP of trying to maintain its power over the King and his tribal leaders by attempting to introduce clauses in the planned provincial constitution which infringe and undermine the neutrality of the King and the institution of

³ The focus in this chapter is mainly on the Constitution of the Republic of South Africa and constitutions which were written by the IFP, and the ANC in the period between 1990 and December 1995, in the Province of KwaZulu-Natal.

tribal chiefs, under the mask of reinforcing Zulu culture and tradition.⁴ The ANC's provincial constitutional proposals for KwaZulu-Natal maintain that the King should be above party politics. Ironically, while the IFP accepts this, its constitutional suggestions state clearly that the King and the tribal authorities would have to perform their duties in accordance with Zulu tradition and custom as laid down by the IFP constitution.⁵

The ANC's stance on the role and the status of tribal leaders is in line with the provisions included in the national interim constitution. The ANC promoted The Remuneration of the Traditional Leaders Act on 27 June 1995, which was passed in Parliament in Cape Town, with the intention of liberating tribal authorities from party politics.⁶ The IFP, however, rejected this Act arguing that it was unconstitutional, maintaining that it was passed on the initiative of the ANC in order to undermine the IFP as a ruling party in the province of KwaZulu-Natal.⁷ The explanation for this is that, the IFP is the only party, apart from the ANC, ruling a province which has the institution of tribal authorities. Seven out of the nine provinces have tribal authorities, the exceptions being the Western Cape and Gauteng.

⁴ Jacob Zuma, the leader of the ANC in the province of KwaZulu-Natal, was quoted by The Natal Witness on 24 October 1995, in Pietermaritzburg, when he was introducing the ANC's constitutional proposals in the provincial Parliament.

⁵ The Inkatha Freedom Party's Constitution, Section 49, 3 October 1995.

⁶ The Natal Witness, 28 June 1995.

⁷ The Natal Witness, 28/06/1994, 29/06/1994, and The Natal Mercury, 29/06/1994.

All these disagreements, accusations and counter-accusations point to the on-going struggle between the ANC and the IFP for political control of KwaZulu-Natal. This affects the tribal authorities, because of the influence they have over rural communities. But these political parties have differed over the status and role of the institution of tribal authorities in the province of KwaZulu Natal. With these disagreements in mind, this chapter goes on to examine legislation which deals with the affairs of tribal authorities in the democratic dispensation. It argues that the IFP attempts to maintain its influence over the King and tribal authorities in KwaZulu-Natal through provincial constitutional measures.

Provisions Made in the Interim Constitution.

The interim constitution of the Republic of South Africa made provisions for integrating the institution of tribal authorities in the structures of the democratic government so as to ensure that tribal leadership is protected by law in the democratic order. This has been hailed by Advocate Mabiletsa because "it is for the first time that tribal leaders are recognized in the Constitution of this country."⁸ Mabiletsa views this as part of increasing and strengthening the powers of the tribal leaders in the democratic dispensation.⁹

⁸ An address by A. Mabiletsa to the Commission on Provincial Government on "North West Province in Establishing the House of Traditional Leaders," Pretoria: 20-21 April 1995, p.2.

⁹ Ibid.

Concerning the participation of tribal authorities in the affairs of the country at large, Chapter 11, Sections 183 and 184 of The Constitution of the Republic of South Africa, 1993, Act No. 200 of 1993, provides for the creation of Provincial Houses of Traditional Leaders, and a Council of the Traditional Authorities which will operate at national level.¹⁰ Essentially, the Council and the Provincial Houses will play an advisory role in government. The Provincial Houses will advise and make proposals to provincial government on "matters relating to traditional authorities, indigenous law, tradition and custom." The Council of Traditional Leaders which will consist of "a chairperson and nineteen representatives elected by traditional authorities in the Republic,"¹¹ will do the same at national level. In addition, the State President will be advised by a Council of Traditional Leaders.¹²

The intention of such arrangements is to ensure that the Provincial House of Traditional Leaders and the Council of Traditional Leaders are given constitutional authority, creating a channel through which matters concerning their customs and traditions could be discussed. While this fulfilled part of the negotiated deal struck at Kempton Park, it was also part of the democratization process itself. By accommodating tribal

¹⁰ Government Gazette, No.15466, Interim Constitution of the Republic of South Africa, 28 January 1994.

¹¹ Government Gazette, No. 15466, "The Interim Constitution of the Republic of South Africa," Section 184 (1) 28 January, 1994.

¹² *Ibid*, Section 184 (4) (b).

authorities in its structures, the new government afforded them the opportunity to participate in the decision-making processes of governance. To deny a special place to tribal authorities might leave them embittered with the new dispensation, which could undermine the development of democracy.

In the province of KwaZulu-Natal, the question of the establishment of a Provincial House of Traditional Leaders is still a contentious issue, especially between the major political parties, the ANC and the IFP, whose views differ, especially on the status and the role of the Zulu King, Goodwill Zwelithini.

The IFP's Constitutional Proposals.

The IFP's first proposals for the future role of tribal leaders in democratic KwaZulu-Natal were made in 1990 in The KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990, which was passed by the former KwaZulu Bantustan government in Ulundi. Despite the abolition of the KwaZulu Bantustan government after the April 1994 election, this Act remains in force now. What is worth noting here is the timing of the IFP in passing this Act. The IFP knew that the process for democratizing South Africa began in 1990, and that the Bantustans looked likely to be abolished. Yet the IFP enacted the legislation dealing with the status and the role of the tribal authorities. This suggests that the Act was designed to be applied in the democratic dispensation. This also served as a new bond between the IFP and

tribal authorities, which could be carried over to the democratic era.

After the formation of the Government of National Unity, most of the clauses in The Amakhosi and Iziphakanyiswa Act were amended and adopted in The KwaZulu-Natal Act on the House of Traditional Leaders, No.7 of 1994, which came into effect on 11 November 1994.¹³ Similarly, some of the clauses from The Iziphakanyiswa Act were adopted and incorporated in the IFP's draft constitution for KwaZulu-Natal which was released on 3rd October 1995. Despite these adaptations and amendments The Amakhosi and Iziphakanyiswa Act itself remains largely in place.

Several chapters in the IFP's proposed provincial constitution deal with the future role of tribal authorities. For instance, Chapter 13 provides for the powers, functions and duties of the House of the Traditional Leaders in KwaZulu-Natal. Section 59, stipulates that:

The Provincial House will advise and make proposals to the Provincial Legislature or cabinet, and comment and make recommendations on any legislation or proposed executive action which may adversely affect traditional and customary law and its autonomy in terms of this constitution, and

¹³ The Provincial Gazette of Kwazulu/Natal, 15 November 1994.

*shall exercise other powers and functions as they may be provided for by the law of the Kingdom only.*¹⁴

It goes on to say that the House of Traditional Leaders might suspend, withdraw or modify the powers of any traditional leader by a resolution of two-thirds of its members.¹⁵ By conferring such powers on the House of Tribal Authorities, the IFP's mooted constitution guarantees that no decision concerning the House can be taken without its consent. Here the House would be granted powers to object to any action in the provincial parliament which might seem to contradict Zulu custom and culture. This is of great importance to the IFP in that tribal authorities would play an important role as its watchdog, in ensuring that the provincial government perpetuates Zulu ethnic consciousness which the IFP promulgated in the former KwaZulu Bantustan government.

However, one aspect which the IFP failed to take into account in its constitutional proposal is that, although most tribal leaders are aligned to it, their position in the democratic dispensation is also protected by the Constitution of the Republic. Unlike in the former Bantustan, in the new provincial parliament tribal authorities would be able to take

¹⁴ The Provincial Gazette of KwaZulu-Natal, "KwaZulu-Natal Act on the House of Traditional Leaders," No.7 of 1994, Section 4 (1), Assented to on 1994/11/11. See also, Inkatha Freedom Party, Constitutional Committee of Provincial Legislation of Natal, Chapter 13, Section 59, 3 October, 1995, p.42.

¹⁵ Inkatha Freedom Party, Constitutional Committee of the Provincial Legislature of KwaZulu-Natal, Chapter 13, Section 59, 3 October, 1995, p.42.

decisions regarding their customs and traditions without the interference of political parties.

On the protection of the institution of tribal authorities, the IFP's constitutional proposals state that "the area of autonomy of traditional leaders as the administrators and primary local government of their respective communities in terms of indigenous and customary law shall be guaranteed and protected."¹⁶ Perhaps this protection is meant to ensure that tribal leaders remain under the influence of the IFP's ideology. Furthermore, one could argue that the IFP is here trying to appease and at the same time to insulate tribal leaders from other political parties, probably because the IFP knows that should its opponents win the favour of the tribal chiefs in KwaZulu-Natal, its support in this province could be seriously weakened. In fact, rural areas are seen in particular by the ANC and the IFP alike as pools where they could recruit and mobilize political support, since this is where the majority of the people live. To achieve this, the political parties need allies or agents, effectively tribal authorities in the rural setting.

It can equally be argued that the IFP's proposals are not totally different from the provisions which appear in the interim constitution. Just as in the interim constitution, the IFP's constitutional suggestions confine the duties of the tribal authorities to issues dealing with customs, culture and tradition. The interim constitution recognizes and protects

¹⁶ Ibid.

tribal authorities on the grounds that they can be useful in supplying much needed expert advice on tribal matters. Similarly, the interim constitution determined that the House of Traditional Leaders in the provinces should serve a merely advisory capacity so that they could not block important decisions, but would facilitate the democratization process in policy-making.¹⁷

However, the IFP constitutional proposals mentioned nothing about whether tribal leaders could take part in party politics. Perhaps the IFP is silent on this issue because it knows that barring tribal leaders from participating in politics could be very problematic to the IFP itself, simply because chiefs constitute the backbone of the party. For instance, Chief Buthelezi, the IFP leader, is himself a tribal leader, and most people who hold senior positions in the IFP, such as Nyanga Ngubane, Member of Executive Council (MEC) for Traditional Affairs in KwaZulu-Natal, to mention but one, are themselves tribal leaders.

The Inkatha Freedom Party's constitutional plan states that the members of the provincial House of Traditional Leaders should consist of three representatives from each of the regional authorities.¹⁸ The report of the Commission on Provincial

¹⁷ The Constitution of the Republic of South Africa, 1993, Act 200 of 1993, Chapter 11, Section 184 (5)(c)(d).

¹⁸ Inkatha Freedom Party's Constitution, Chapter 13, 3 October, 1995, p.41. See also Section 5 (1) (a) of The Amakhosi and Iziphakanyiswa Act of 1990. The terms in The KwaZulu Amakhosi and Iziphakanyiswa Act of 1990 are similar to those in The KwaZulu-Natal Act on the House of Traditional Leaders, No.7 of 1994. In other words, a change of name is the only difference

Government notes that currently there are two hundred and ninety tribal authorities in this province, which are divided into twenty-four regional authorities.¹⁹ In addition, there are eight community authorities.²⁰ The Amakhosi and Iziphakanyiswa Act of 1994 mentions that "representatives shall be elected by the members of the regional authorities,"²¹ and that such "representatives shall hold office for a period of five years and shall be eligible for re-election."²² The Provincial House of the Traditional Leaders would consist of eighty members.²³ However, the IFP's constitutional provisions mention nothing about representation of the monarchy in the House. According to The Iziphakanyiswa Act of 1990, the House will also include one person nominated by the Ingonyama (the King of the Zulus).²⁴

The IFP's constitutional plan says nothing about where the capital of KwaZulu-Natal should be located. The Iziphakanyiswa Act of 1990 previously indicated that "the House of Traditional Leaders shall meet at Ulundi, unless the chairperson of the House

here.

¹⁹ Annexure A, "Document for the use of the Chairman of the Commission on Provincial Government, Mr. T. Botha," October 1994, p.9.

²⁰ Ibid.

²¹ Section 5 (2) (a)

²² Section 5 (2) (c)

²³ Inkatha Freedom Party Constitution, Chapter 13, 3 October, 1995, p.42.

²⁴ Section 5 (1) (d).

directs otherwise."²⁵ However, for the time being, the IFP has omitted this feature from its proposals.

According to the provisions made in the Iziphakanyiswa Act, "there shall be an ordinary meeting of the House at least once every year during a session of the provincial parliament."²⁶ The House of Traditional Leaders will have its session wherever the provincial parliament sits, either in Pietermaritzburg or in Ulundi. The House of Traditional Leaders will be required to sit in parliament so as to be involved in decision-making on issues concerning their traditions and customs. This would apparently serve the cause of democracy.

On the role and status of King Goodwill Zwelithini of the Zulus, the IFP has proposed establishing a constitutional monarchy as its form of government to be modelled after democratic and pluralistic constitutional monarchies which exist under a rigid constitution that define and regulate the powers of the monarch.²⁷ The King would be the leader of the province of KwaZulu-Natal, but not the head of government. The provincial head of government would be the premier. On this issue, the IFP's constitutional proposals further specify that:

²⁵ The Amakhosi and Iziphakanyiswa Act, Act 9 of 1990.

²⁶ KwaZulu Amakhosi and Iziphakanyiswa Act, Act 9 of 1990.

²⁷ Inkatha Freedom Party's Constitution, "Constitution Committee of the Provincial Legislature of KwaZulu-Natal," 3 October, 1995, p.3.

*The King of the Zulu nation shall reign but not govern, shall be above party politics and shall perform no executive action. As a rule the King's actions shall be countersigned by a competent Minister who will bear the relevant responsibility.*²⁸

Probably it is due to this clause that the ANC accuses the IFP of trying to maintain its power over the King. With the King always having to seek the approval of ministers, his independence would be undermined. The question is, from which party will these ministers come? The ANC would be unlikely to accept IFP ministers having this power over the monarchy, nor would the IFP tolerate this going to the ANC. Although the IFP's constitutional plan did not specify what it meant by a competent minister, it could even mean this to be the King's traditional prime minister, who happens to be Chief Gatsha Buthelezi. All in all, this clause suggests that the IFP is trying its best to maintain its power over the King.

The IFP's constitutional proposals note that "the King shall exercise his powers with the assistance of the Royal Council and of the Premier."²⁹ The Royal Council would consist of twenty members, ten appointed by the House of Traditional Leaders including the Chairman of that House, six appointed by the King and four by the provincial parliament. The Royal Council's task

²⁸ Ibid.

²⁹ Ibid, p.4.

is to advise and assist the King on all matters relating to his functions, status and role in the province.³⁰

Furthermore, "the King shall not participate in political activities, or express alignment with any given political party, nor shall support or antagonise any political issue being debated in Parliament or in the media."³¹ How the King would achieve neutrality remains to be seen, because in the former KwaZulu he failed to do so, despite the provisions made in the constitution of the KwaZulu Bantustan government.

The IFP's constitutional plan stipulates that "the King shall recognize the Traditional Prime Minister."³² However, the issue of the traditional prime minister is problematic, because the IFP regards Chief Buthelezi as this person, while the King himself says that the post does not exist.³³ In the KwaZulu Bantustan government, Buthelezi was indeed the King's traditional prime minister, but due to developments which took place in Zulu ethnic politics after the abolition of the Bantustans, it appears that the King does not want Chief Buthelezi to be his traditional

³⁰ Inkatha Freedom Party, Constitutional Committee of the Provincial Legislature of KwaZulu-Natal, 3 October, 1995, p.4.

³¹ Ibid.

³² Ibid.

³³ Prince S'fiso Zulu, the spokesman of the King, was quoted by The Sunday Nation in June 1994 as saying that the position of the traditional prime minister does not exist in the Zulu monarchy. Zulu said so in response to Buthelezi's claim at the IFP's victory rally at Umlazi on 6 June 1994 that he was born to inherit the position of the Zulu traditional prime minister which the Buthelezi family has always supposedly held.

prime minister any longer. It seems, therefore, that the IFP has included this provision to ensure that Buthelezi carries on occupying this traditional post, so as to continue being able to influence the King in decision-making regarding the Zulu nation. In addition, Chief Buthelezi was elected chairperson of the House of Traditional Leaders in the province of KwaZulu-Natal by the majority of the IFP aligned tribal leaders. Perhaps this was done intentionally to keep Buthelezi close to the King, who will be the head of the House of Traditional Leaders despite the rift which developed between the King and Buthelezi. Although he is currently Minister of Home Affairs in the central government, Buthelezi will continue to influence and play a prominent political role in a province as well, in his capacity as a traditional leader.

Other specific executive powers of the King according to the IFP's constitution proposals include: summoning and dissolving parliament; declaring, with the approval of parliament, a state of emergency in the Kingdom.³⁴ The IFP constitution also stipulates that "the King shall have the power to exercise and perform all other functions as may be conferred upon or assigned

³⁴ The IFP is referring the province of KwaZulu-Natal as the Kingdom of KwaZulu-Natal, probably because only the King of the Zulus is recognized by the national constitution as the constitutional monarchy of KwaZulu-Natal. Provisions for such recognition were made in the interim Constitution of the Republic of South Africa, Act 200 of 1993, Section 160. However, apart from this fact, the IFP is using the term 'kingdom' in line with its ambitions for a federal state.

to him in terms of this Constitution or law of the Kingdom only."³⁵

The IFP's constitutional proposals seek to empower the Member of Executive Council for Traditional Affairs, in consultation with the provincial Cabinet, to suspend from office any tribal leader who becomes a member of or participates in an organization whose objectives are subversive or prejudicial to the government of KwaZulu-Natal, or to law and order.³⁶ This provision undermines the power of the King. Chiefs are installed by the King, and in so doing they owe their allegiance to him. Consequently, the King, not a member of a political party, is the one who should take the responsibility for punishing or suspending chiefs from office whenever they contravened customary law. It is this sort of limitation which inhibits tribal leaders in KwaZulu-Natal from belonging to other organizations such as CONTRALESA for fear that they would contravene the wishes of the IFP. This may also explain why only twenty-five tribal leaders out of 290 in KwaZulu-Natal belong to CONTRALESA.³⁷ The IFP also discourages chiefs from becoming members of the ANC.

³⁵ Inkatha Freedom Party, Constitutional Committee of the Provincial Legislature of KwaZulu-Natal, 3 October, 1995, pp.4-5.

³⁶ Inkatha Freedom Party, Constitutional Committee of the Provincial Legislature of KwaZulu-Natal, 3 October, 1995.

³⁷ Sunday Nation, September, 1994.

Other Constitutional Proposals.

The ANC's draft constitution for KwaZulu-Natal, which was released on 23 October 1995, allows the King to be the traditional monarch and ceremonial functionary of the province.³⁸ This suggests that the King would be the ruler but not the head of the provincial government. This provision is similar to that of the IFP. However, the difference lies in that the ANC proposed that the King would be allowed to appoint his own royal council, no member of whom would occupy party political office.³⁹ The monarch, as head of the traditional leader, would install all the *amakhosi* in the province, and, in consultation with his council, would be the final arbitrator of disputes of a cultural nature among the *amakhosi*.⁴⁰ The monarch would preside over the House of Traditional Leaders.⁴¹ The ANC maintains that the King should be beyond the reach of party politics, thus making him independent, and allowing him to be a unifier of the Zulu nation.⁴² Judging from these provisions, it is clear that the ANC has no intention of monopolizing the status of the King or

³⁸ The African National Congress Constitution Draft, 23 October 1995.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Blade Nzimande, an ANC Member of Parliament in Cape Town and Dumisani Makhaye of the ANC in KwaZulu-Natal emphasized the importance of the independence of the King, that no political party should interfere with his position as the unifier of the Zulu nation. The Natal Witness, 14/04/1994. (And see the latter part of Chapter Three.)

maintaining its power over him. Unlike the IFP, the ANC seeks to elevate the king above party politics.

Other political parties in the province also have views concerning the status of the King in the provincial government. To a large extent, it appears that there is consensus among them on a number of these issues, including the fact that the King must be politically neutral. Speaking in the constitutional debate in the provincial parliament in Pietermaritzburg on the 14 December 1995, Minority Front leader Rajbansi pointed out that the King should be King of the entire area of KwaZulu-Natal.⁴³ Echoing this was the Pan-African Congress, Member of Parliament in the province, Alex Mkhwanazi, who pointed out that the King should be King of KwaZulu-Natal and not of an ethnic group.⁴⁴ However, Wessel Nel of the Democratic Party in KwaZulu-Natal said that his party does not agree that the King should be tied to the land. He said this could lead to political manipulation of what is essentially a cultural role.⁴⁵

On the role and function of the tribal authorities at the provincial government level, the ANC's proposals do not differ much from those of the IFP, in that the tribal authorities would be limited only to issues dealing with traditions, customs and

⁴³ I gathered this information from the Constitutional Committee discussions which took place in the provincial legislature in Pietermaritzburg on 14 December, 1995.

⁴⁴ Ibid.

⁴⁵ Ibid.

culture. This role has already been specified in the interim constitution, which the ANC played a major part in composing.

Remuneration of Tribal Authorities.

The remuneration of tribal leaders is another contentious issue in the provincial government of KwaZulu-Natal. The interim constitution left all matters concerning tribal leaders in the hands of the premiers of the respective provinces. However, on 27 June 1995 a Bill was passed in Parliament in Cape Town, allocating responsibility for remunerating tribal leaders to the central government.⁴⁶ This Act was supported by the ANC and the National Party, while the IFP, the Democratic Party and the Freedom Front abstained from voting.⁴⁷

The Bill was proposed at the initiative of President Nelson Mandela, on the basis that it would enable the remuneration of tribal authorities to be uniform in all the provinces. It would also apparently liberate tribal authorities from exploitation, manipulation and abuse at the hands of some provincial politicians who use remuneration as a means of securing loyalty from tribal leaders for political gain.⁴⁸ Although no reference

⁴⁶ The Natal Witness, 28/06/1995.

⁴⁷ Ibid.

⁴⁸ This was the argument that the State President, Nelson Mandela put forward to back the remuneration of the traditional leaders Bill. I obtained this information from Radio South Africa, PM show, in June 1995.

was made, the State President could have been referring to the past experience of KwaZulu.

From the IFP's point of view, the Act was bulldozed⁴⁹ through central parliament by the ANC-led government, aimed at undermining the powers of the provinces in this country.⁵⁰ The IFP's argument is based on the fact that Chapter 11 of the interim constitution assigned all the responsibilities concerning tribal matters to the provincial premiers acting in consultation with the provincial committees which were set up in each province. The IFP, therefore, feels that responsibility for remunerating tribal authorities should lie with the provinces, and not with central government. The IFP challenged this Act in the Constitutional Court. However, the Act still remains in effect.

The validity of the IFP argument was spelt out by Koos van der Merwe, an IFP Member of Parliament in Cape Town, who pointed out that the interim constitution specifically stated that any Bill which concerns tribal authorities passed in one chamber of the central legislature should be referred to the Council of Traditional Leaders before being approved by the other chamber.⁵¹

⁴⁹ The IFP argued that the Bill was brought to Parliament without proper consultation. This is why the party felt that the Bill was bulldozed through Parliament by the ANC.

⁵⁰ The Natal Mercury, 28/06/1995.

⁵¹ Koos van Merwe was quoted by The Natal Witness on 28/06/1995 and The Natal Mercury on 29/06/1995. His argument is centred on provisions made in The Constitution of the Republic of South Africa, 1993, Act No.200, 1993, particularly Chapter 11, Section 184 (5)(a).

After the approval of the Bill dealing with the remuneration of tribal leaders on 27 June 1995, by the lower chamber, it should have gone to the Council of Traditional Leaders before passing into law.⁵² From the legal point of view, Van der Merwe's argument is indeed right. Nevertheless, the problem was that while legislation to create a Council of Traditional Leaders is in place, the Council itself does not exist. This explains why the IFP pointed out that the Bill was unconstitutional and vowed to challenge it in the Constitutional Court for the province's right to pay and regulate tribal leaders.

The struggle for control of the institution of the tribal authorities between the ANC and the IFP shows no sign of cooling down. In July 1995, The Mail and Guardian reported that the IFP launched the first legislative waves of its controversial "twenty point autonomy bid"⁵³, with two provincial Bills preventing KwaZulu-Natal tribal leaders from accepting central government payment in terms of the Remuneration of Traditional Leaders Act.⁵⁴ These Bills were approved by the IFP-dominated provincial cabinet amid fierce opposition from the ANC.⁵⁵ Restricting the King from any source of public allowance other than the provincial government, the two Bills represent amendments to two

⁵² The Natal Mercury, 29/06/1995.

⁵³ Media reports had it that the IFP has prepared a document known as a "20 point plan", which is intended to give the province of KwaZulu-Natal more powers than those granted by the central government.

⁵⁴ Mail and Guardian, July 21 to 27 1995, p.13.

⁵⁵ The Mail and Guardian, July 21 and 27 1995, p. 13.

Acts⁵⁶ of the former KwaZulu government, which themselves enshrined a system of control over traditional leaders. What this meant is that the IFP attempted to carry over to the democratic dispensation some of the policies it implemented in the former KwaZulu Bantustan. This is why The Amakhosi and Iziphakanyiswa Act of the former KwaZulu was adopted in the democratic KwaZulu-Natal.

As to prohibiting the central government from paying the King, Section 48 of the IFP's constitutional proposals which were released on 3 October 1995, indicates that "the King and his Royal Household shall have a budget for the maintenance of his family and Household to be approved by a law of the Kingdom and shall be assisted in administering such budget by an Royal auditor appointed by Parliament."⁵⁷ Complementing this provision is Section 14 of the KwaZulu-Natal Act on the House of Traditional Leaders, Act No.7 of 1994, which empowers *Inkosi Nyanga Ngubane*, Member of Executive Council (MEC) for Traditional Affairs to suspend from office any tribal leader suspected of accepting any unauthorised payment and to be fined up to R500.⁵⁸ Since King Goodwill is also the chief of the Usuthu tribe, he could face this penalty were he to transgress this law. Maybe this explains why President Mandela proposed the Remuneration of

⁵⁶ These acts are amendments of the Sections of The KwaZulu Amakhosi and Iziphakanyiswa Act, 1990.

⁵⁷ Inkatha Freedom Party, Constitutional Committee of Provincial Legislature of KwaZulu-Natal, 3 October, 1995.

⁵⁸ KwaZulu-Natal Act on the House of Traditional Leaders, No.7 of 1994. (assented to on 1994/11/11)

Tribal Leaders Act of 1995, so as to preserve the respect and status of the King. It does not make sense, for an *inkosi* who is a subordinate of the King, to remunerate the King himself.

When asked to comment on the issue of remuneration, Mike Stanleys, in his capacity as a Director of the Department of Local government in the province of KwaZulu-Natal, stationed in Pietermaritzburg, told me that his department had received submissions from individuals as well as organizations, and that all these had shown a significant preoccupation with the position of the Zulu King.⁵⁹ According to Stanleys, some proposed that the King should control the salaries of the traditional leaders, whereas others favoured placing him on the central government payroll.⁶⁰ Probably those who suggested that the King should control the remuneration of tribal leaders, did so bearing in mind that the king is the chief of all chiefs and that its logical for him to take that responsibility. Worth noting here, is that while different people and different organizations came up with various opinions concerning the remuneration of the King and his tribal leaders, no one objected to the proposal that tribal leaders be remunerated. The disagreement is about who should remunerate them, the central or the provincial government. The belief that both the King and other traditional leaders should be above party politics was widespread among those who

⁵⁹ Interview with Mike Stanleys, 12 December 1995, Pietermaritzburg.

⁶⁰ Ibid.

made submissions on the issue.⁶¹ As to the overall role of the King, Stanleys stated that his Department had received proposals ranging from conferring powers on the King to advise the state president on cultural matters, to those granting the King a role in demarcating "tribal" boundaries, in addition to the powers he had at present.⁶²

From the preceding discussion, one can observe that the intermingling of broader political issues with those concerning tribal authorities makes the integration of this institution in the structures of the provincial government difficult. The legislation providing for this already exists, but political differences between the ANC and the IFP about the institution of chiefly rule complicate the whole incorporation process. Although the IFP and the ANC resolved some of their differences so as to allow the local government general elections to take place in KwaZulu-Natal, no proper solution was reached concerning the position of tribal authorities, particularly in the structures of democratically elected local governments. This leaves the tribal leaders themselves awkwardly placed. Even so, the other problem is that the tribal leaders themselves have failed to come up with better proposals regarding their plight, because some are aligned with the IFP and some with the ANC.

⁶¹ Interview with Mike Stanleys, 12 December 1995, Pietermaritzburg.

⁶² Interview with Mile Stanleys, 12 December 1995, Pietermaritzburg.

Unresolved issues such who should pay the traditional leaders, and the specific role that tribal authorities will play in elected local government structures, have retarded the beginning of the implementation of the development programmes. Moreover, it was such disagreements which prevented the first democratic local government elections from taking place on time in KwaZulu-Natal in November 1995.

It should also be acknowledged that proposing that tribal leaders be non-aligned will continue to be problematic, because the leadership of the IFP is dominated by the tribal leaders themselves. It is, therefore, pointless to continue pressing this issue. Probably it should be dropped altogether. Moreover, each of the major parties does enjoy the support of some tribal leaders in KwaZulu-Natal.

While these problems still remain, the interim constitution did stipulate some mechanisms for integrating the institution of chieftaincy in the structures of new local government. Other legislation was also passed dealing with this matter. It is, thus, proper that Chapter Five moves on to examine the role and status of tribal authorities at the local level.

CHAPTER FIVE

THE ROLE OF TRIBAL AUTHORITIES IN THE NEW SYSTEM OF LOCAL GOVERNMENT.

During the multi-party negotiations at Kempton Park, delegates agreed that the institution of tribal authorities would be incorporated in all levels of the democratic government, national, provincial and local. But a major problem existed at the local level. During the era of apartheid, the former KwaZulu Bantustan government conferred the function of local government on tribal authorities. But this hung in the balance after the abolition of the Bantustan government and its inclusion in a democratic, unified South Africa. Nevertheless, the structures of tribal local authorities continued to operate.

Provisions were included in the interim constitution to recognise and protect the tribal authorities in South Africa. But there is no specification of what role tribal authorities should play at the local level, except by making reference to other applicable laws. For instance, Section 182 of the interim constitution indicates that "the tribal leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government, shall ex-officio be entitled to be a member of that local government,

and shall be eligible to be elected to any office of such local government."¹

The failure of the interim constitution to clarify the role of tribal authorities in a democratically elected local government begs the question as to how well these different existing forms of local authorities will work together. Does it mean that we shall have two types of local government structures running concurrently, with tribal local authorities under chiefs serving as ex-officio members in the democratically elected local government, while at the same time continuing to run their tribal local authorities? Or are we going to have two distinct types of local governments in rural areas, each with its own responsibilities, for example, a democratically elected local government delivering services, and traditional and customary matters left to tribal local authorities?

To assess these questions, the first section of this chapter begins by examining legislation dealing with the new local government. The second investigates the structures of the new local government. It also examines the role of chiefs in these particularly with regard to sensitive issues such as land allocation and management. The final section takes a closer look at the role of the tribal authorities in local administration, focusing especially on the implementation of development programmes in the rural areas of KwaZulu-Natal.

¹ Government Gazette, No. 15466, The Constitution of the Republic of South Africa, 1993, Act No. 200, 1993, Chapter 11, Section 182, 28 January, 1994.

Legislation Dealing With the New Local Government.

One of the pieces of major legislation which was designed to provide guidance for restructuring local government was The Local Government Transition Act, Act No. 209 of 1993. This was promulgated to provide rules for restructuring in the interim dispensation until a final system of local government is devised.² The Act came about as a result of the deliberations of the Local Government Negotiation Forum (LGNF) that took place against the backdrop of the national multi-party negotiations at Kempton Park.³

The Act was intended to deal in a phased manner with restructuring local government throughout South Africa. The reason for the restructuring was that the previous system was based on the practice of apartheid rule.⁴ To correct past imbalances, the new South African government moved towards implementing a system where communities would be governed at a local level on a democratically elected and non-racial basis, aiming at an equitable sharing of municipal resources, and the

² Government Gazette, No.15468, Local Government Transition Act, 1993, Act No. 209, 1993, assented to on 2 February 1994.

³ M. Francis, "Document 4," "Legal Situation," in M. Francis, D. Irvine, and C. Seethal, Investigation into Metropolitan/non-Metropolitan Forms of Local Government for the Greater Pietermaritzburg Area, Resource Document, 15 July 1994.

⁴ Government Gazette, No.15468, Local Government Transition Act, 1993, Act No.209, 1993.

development of integrated communities, both economically and socially.⁵

The principles underlying the Local Government Transition Act are entrenched in The Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993). The Act extends the provisions made in the interim constitution, in that it deals primarily with the transformation of the third tier of government, while the constitution concentrates mainly on central and provincial government. Among other things, Section 8 of the Local Government Transition Act provides for the demarcation of the area of jurisdiction of various transitional councils. The Act envisages that the boundaries will be considered by a Demarcation Board, which will make recommendations to the Member of Executive Council (MEC) responsible for local government.⁶ These recommendations are, however, not final, as the Act further provides that the affected transitional council can also appeal to the MEC.⁷ And any action taken by the MEC must be with the agreement of the Provincial Committee for Local Government (the PCLG)⁸.

The main problem with this Act, however, is that it does not make any specific distinction between urban and rural areas. Its provisions provide sufficient evidence that it was designed for

⁵ Ibid.

⁶ Local Government Transition Act, 1993, Act No.209, 1993.

⁷ Section 8(2) read with Section 11 of the Act.

⁸ Section 3 and 4.

urban areas and that it cannot work if applied to rural areas.⁹ Many rural areas do not have local authority structures or non-statutory bodies, both of which are key elements in the transitional phase.

When asked to comment on the exclusion of the tribal areas in the Act, the Director of the Department of Local Government in KwaZulu-Natal, Mike Stanleys, maintained that tribal authorities are not local governments *per se*, and that when the Act was passed, the central government had not declared these authorities to be local government bodies.¹⁰ Stanleys pointed out that "this is why, until now, tribal authorities and tribal land do not form part of the area of jurisdiction of multiple local government."¹¹ Stanleys acknowledged frankly that the issue of incorporating tribal authorities is proving to be a delicate one. Since the restructuring of local government was only in an interim phase,¹² his department noted that it was not necessary, or advisable, to force the issue of incorporating any tribal area

⁹ Local Government Transition Act, 1993, Schedule 7, Sections, 8, 9 (1), (2).

¹⁰ Mike Stanleys, interview, 12 December 1995, Pietermaritzburg.

¹¹ Ibid.

¹² The process of restructuring local government was divided between three phases, the pre-interim, interim phases, and the period after the new constitution come into effect. The pre-interim phase was the time between the period when The Local Government Transition Act, 1993, was passed until when the first general local elections took place in 1994. The interim phase is the period from the end of 1994 until when the new constitution comes into effect, in 1996.

against its wishes.¹³ Worth noting here is that in the democratic dispensation, tribal authorities are not regarded as organs of local government, but they will be included in the structures of the democratically elected structures of local government in an ex-officio capacity.

The Establishment of the New Local Government.

Mike Stanleys identified three current types of local government in the province of KwaZulu-Natal: namely, a metropolitan local government (urban areas); village/municipal councils (townships, for example, greater Edendale, Sobantu and KwaMevana); and traditional authorities (rural areas).¹⁴ However, village or municipal councils and traditional authorities are not local governments in the true sense. In the former KwaZulu areas, the *amakhosi* were appointed by the KwaZulu government, and the tribal authorities and regional authorities had very limited capacity to implement their development and administrative decisions.¹⁵ These powers lay with the departments of the KwaZulu government. In settlement (townships) areas such as Edendale and Sobantu, the Natal Provincial Administration had been the controlling authority for local government purposes.¹⁶ Creating

¹³ Ibid.

¹⁴ Mike Stanleys, interview, 12 December 1995, Pietermaritzburg.

¹⁵ Ibid.

¹⁶ Ibid.

fully operational local governments in these areas would, therefore, be a new experience.¹⁷

In 1993 a report of the Transition Executive Council Sub-Committee on Regional and Local Government and Traditional Authorities stated that the establishment of local governments would begin with the establishment of district councils in different rural areas.¹⁸ These councils are meant to consolidate a wide range of different rural local authorities from areas such as commercial farms, rural settlements, communal lands, and small rural towns.¹⁹ The objective of the district councils would be to bring together the poorest local areas with wealthier ones. It would also allow for better planning and provision of services, and could ensure that people in areas with no effective local government get basic services such as water and education.²⁰

Below the district council would be a wide range of local authorities, from large municipalities to small local authorities. In areas where there are no viable local authority

¹⁷ Ibid.

¹⁸ Rural Local Government In South Africa, Policy Proposals for the Structures and Functioning of Rural Local Government During the Transition and Final Phase of Local Government Reorganization, December, 1993, p.3.

¹⁹ Ibid.

²⁰ Ibid.

structures, the report indicates that village committees²¹ or management boards would be established. Village committees would provide for formal representation of local interests but would not be expected to provide services. Instead, management boards would take on more service delivery and over time become fully fledged local governments.²²

problem

The Association of Regional Service Councils revealed that the newly established district councils will utilize local government structures that are already operating, namely, the Regional Service Councils (RSCs) and the Joint Service Boards (JSBs).²³ The reason here is that these structures are

²¹ On issues concerning village committees, my interview with the chiefs of Vulindlela district revealed that these committees were ordinarily established to pursue some common interest. They were established at regional authority level, at tribal authority level and at ward level by an *inkosi* or *induna*. The establishment of a committee required the approval of the tribal authorities. Village committees normally had a specific focus, for instance, education, water, etc. Nominations for such committees were normally made by members of the community who also had the opportunity to reject nominations. Village committees were ordinarily led by a chair approved by the *inkosi* or *induna* and were given the role of advising on policy as well as carrying out certain tasks. In large part, these committees were autonomous enough to carry out functions by themselves with a degree of reporting back to the traditional authorities at various times. In essence they make proposals to the *inkosi* or *induna* who must in consultation with councillors ratify or reject the committee's proposal. Interview with Chiefs, N. Zondi, S. Zondi and V.A Ngcobo of Vulindlela district, 14 August 1994, Pietermaritzburg.

²² "Interim Local Government," Proposal One, NRDF Information Park on Rural Local Government, December, 1993, p.3.

²³ RSCs and JSBs are the structures through which services have been channelled to rural local governments. Both RSCs and JSBs impose levies and provide services in demarcated areas across the country. The difference between them is that JSBs are specific to Natal, although they serve the same purpose as the RSCs. The RSCs and the JSBs are effectively money gathering and redistributing agencies. The RSCs were constituted by The

considerably experienced in local government duties, and they will provide the starting point in delivering services. The Regional Service Councils will be democratized and serve as interim district level councils.²⁴ The proposal to transform Regional Service Councils and the Joint Service Boards into interim local government structures at district level gained support from a wide range of actors, including the Transition Executive Council Working Group on Rural Local Government and the Management Committee of the Local Government Negotiating Forum.²⁵

Mike Stanleys, Director of the Department of Local Government in the province of KwaZulu-Natal appears to share the same view. Transitional Local Councils (hereafter TLCs) have been created.

Regional Services Councils Act (No. 109 of 1985). The JSBs were created as part of the agreement reached by the Kwazulu/Natal Indaba in 1986.

²⁴ The reason for adopting these structures is that RSCs and JSBs provide a ready-made pool of resources and expertise. Where RSCs and JSBs do not exist (such as in former homeland territories) district councils could be set up along similar lines. This arrangement (the Sub-Committee of the Sub-Council believes) will provide for a fair distribution of wealth as opposed to the random establishment of new Service Councils in those areas where there is not a great pool of resources. This option (it is believed) can also serve to allay the fears of employees and even accommodate employees from elsewhere, (ie, former self-governing territories and Transkei, Bophuthatswana, Venda, and Ciskei), provide continuity and could even avoid disruption which might ensue in attempting to enact new legislation in a short period of time. Annexure A, "Discussion Document on Rural Local Government." October, 1994, p.5.

²⁵ "Restructuring RSCs and JSBs Into Interim District Councils", Proposal Two, NRDF Information Pack on Rural Local Government, December, 1993, p.4.

These bring together urban areas with underdeveloped areas.²⁶ One good example of this is Pietermaritzburg-Msunduzi Transitional Local Council, which brought together the Pietermaritzburg City Council, Vulindlela district and some areas of Mpumalanga district. The objective of the Transition Local Council (TLC) is to enable the rich and developed areas to assist in uplifting poor and underdeveloped rural parts.

Legal opinion suggests that including tribal authorities in a TLC is possible. According to The Local Government Transition Act, provision was made specifically for the incorporation of such authorities.²⁷ In terms of the South African interim constitution, the following two key points emerge regarding traditional authorities in local government bodies, namely that:

*Amakhosi will have ex-officio positions on the local authority.*²⁸

*The traditional authorities will retain their traditional functions and powers unless they are amended by a "competent authority".*²⁹

Although the exact nature of the powers and functions of the amakhosi and the tribal authorities was not specified in the

²⁶ Mike Stanleys, interview, 12 December 1995, Pietermaritzburg.

²⁷ The Local Government Transition Act, Section 8 (i)(a).

²⁸ Clause 182 of the Constitution.

²⁹ Section 181 of Interim Constitution of the Republic of South Africa.

constitution or the Act, Stanleys suggested that it might be possible to draw reference from The Amakhosi and Iziphakanyiswa Act.³⁰ Besides this, he emphasized that the implications from a legal as well as an administrative perspective of including tribal authorities in a TLC need to be explored more fully.³¹

Experience shows that when attempting to integrate a modern urban system of local government with a rural traditional based system, many complex unresolved issues emerge. Central among these is control of settlement and development. Traditional functions associated with the *Inkosi* and the tribal authorities are land allocation and land management. Any significant erosion of these powers would undermine one of the key bases of authority of the *Amakhosi*. By contrast, settlement and development are controlled in urban areas by a town planning scheme and by-laws.³² Therefore, Francis argues that the introduction of this formal system to traditional society would be inappropriate and could only be implemented with substantial adaption. In his view, it is possible to envisage land-use plans being prepared for tribal areas, but a key question is how the legal and traditional responsibilities would be allocated between the traditional

³⁰ Ibid.

³¹ Mike Stanleys, interview, Pietermaritzburg, 12 December, 1995.

³² M Francis, "Status Quo of Local Government in the Greater Pietermaritzburg," in M. Francis, D. Irvine and C Seethal, Investigation into Metropolitan/Non-Metropolitan Forms of Local Government for the Greater Pietermaritzburg Area, Pietermaritzburg: Integrated Planning Services, 15 July 1994, p.27.

authority and the TLC.³³ Then there would in effect be two recognized authorities operating in the same area at the same level controlling settlement. Consequently, difficulties would no doubt arise.³⁴

Another issue which could cause great concern is rating. X ✓
According to Francis, an absence of individual registered land tenure in rural areas and a lack of experience in paying rates or any form of similar taxation³⁵ would mean that it would be impossible to introduce a formal urban rating system in rural tribal areas.³⁶ Any new taxation system which is not linked directly to the consumption of services or to payment of a tribal levy would probably face strong resistance from tribal authorities unless carefully structured and introduced sensitively.³⁷

Judging from this, one could see that the problem of rating would be unique to the transitional councils in KwaZulu-Natal, as this is the only province in which the land of all the tribes is vested in a trust, the Ingonyama Trust.³⁸ As Chapter Three

³³ Ibid, p. 27.

³⁴ Ibid.

³⁵ A tribal levy is payable in tribal areas.

³⁶ M. Francis, "Status Quo of Local Government in the Greater Pietermaritzburg Area," in M. Francis, D. Irvine and C. Seethal, Investigation into Metropolitan/Non-Metropolitan Forms of Local Government for the Greater Pietermaritzburg, 15 July 1994, p.28.

³⁷ Ibid.

³⁸ Ingonyama Trust Act, Act No.3 of 1994.

indicated, 93 per cent of the tribal land is controlled by the Trust. The beneficiaries of the Trust are the relevant tribe or community,³⁹ and the only trustee is the King of the Zulus.⁴⁰

*This suggests that the land cannot be leased or alienated in any way without the prior written consent of the affected traditional authority.⁴¹ As none of the tribal land is privately owned, the rating of the communally owned land will be problematic in a metropolitan context. Should the community pay the rates, or is it the responsibility of the trust? The rendering of, and payment for, services is a further complication. This will be so because "none of the affected tribal areas has been subdivided."⁴² Therefore, no individual sites have been demarcated.⁴³

But now they are included

One suggestion is that rural local governments which will* not be included in the TLCs could take the form of a two-tier system, comprising the Service Councils (RSCs/JSCs) on the one level, and rural local authorities and traditional authorities on the other.⁴⁴ Concerning the first tier of rural local government, it is envisaged that within a province this division of local government would be constituted as follows:

³⁹ Ingonyama Trust Act, Act No.3 of 1994, Section 2(2).

⁴⁰ Section 2(3).

⁴¹ Section 2(5).

⁴² Mike Stanleys, interview, 12 December 1995, Pietermaritzburg.

⁴³ Ibid.

⁴⁴ Annexure A, Discussion Document on Rural Local Government, October, 1994, p.3.

*The whole area of the Service Council would be covered by a local government structure which would incorporate traditional leaders, and should comprise indirectly-elected members representing the various local government structures or traditional authorities in the area.*⁴⁵

The indirectly elected members would be rotated on a regular basis to enable as many members as possible to be exposed to the political and administrative functions of the Service Council.

*Local government or traditional authority structures should comprise directly and indirectly-elected members. The directly-elected members would be elected by means of a ward system in those areas situated outside the areas of jurisdiction of existing local authority areas and traditional authority areas.*⁴⁶

According to these recommendations, the number of directly-elected members would be restricted to a percentage of the total number of representatives in a Service Council area.

The second tier of rural local government would comprise the existing democratically elected rural local government structures and traditional authorities.⁴⁷ Community authorities⁴⁸ would,

⁴⁵ Annexure A, "Discussion Document on Rural Local government," October, 1994, p.4.

⁴⁶ Ibid, p.4.

⁴⁷ Annexure A, "Discussion Document on Rural Local Government," October, 1994, p. 7.

however, be established on the same basis as other rural local government structures. But since tribal authorities are more dominant in some rural areas than civic structures, the Subcommittee on Provincial committees for Local Government thought that it was of cardinal importance that the difference between these bodies should be taken into account. Consequently, civic associations within the areas of jurisdiction of the tribal authority should work together with the traditional leaders on matters of mutual concern.⁴⁹ Nonetheless, this is hardly a solution, because these structures have different perceptions. For instance, in some areas civic associations believe that the national election presages the imminent dissolution of chieftaincy, whereas, in other places, traditional leaders believe that their role will not change.⁵⁰ Besides this, the tribal leaders' major concern is whether and to what extent the new provincial governments will become substitutes for the former homelands governments.

The issue of democratically elected representatives in local government was also posed to Mike Stanleys. He pointed out that the interim constitution expressly provided for a three-tier

⁴⁸ In Kwazulu-Natal there are three types of rural settlements: farm or forest settlements; communal settlements; and tribal settlements. Communal settlements are governed not by the chief but by a group of people who are elected by the community: these are called community authorities as opposed to the tribal authorities which govern the communities under a tribal leader.

⁴⁹ Annexure A, Discussion Document on Rural Local Government, October, 1994, p. 7.

⁵⁰ McIntosh, The Rural Government Debate in South Africa, 1994, p.25.

structure of government, namely, local, provincial and national, which can only be democratic if they are all elected by the people themselves.⁵¹ This suggests that rural communities cannot be excluded from electing local governments. Moreover, the rights of all citizens to elect a government is guaranteed by the interim constitution.⁵² This, therefore, means that local government elections should be held in the rural areas too.

The view of *Induna* David Ntombela, who is both a traditional leader as well as the parliamentary whip of the IFP in KwaZulu-Natal, is that tribal authorities in KwaZulu-Natal are not opposed to local government elections in rural areas. When asked how tribal authorities could be combined with elected representatives, Ntombela's response was that the councillors elected should be the councillors of a traditional authority which would be chaired by a traditional leader.⁵³ The head of each traditional authority should perform his duties in consultation with the democratically elected councillors.⁵⁴ Ntombela pointed out that the local government elections now scheduled for June 1996 in KwaZulu-Natal will be dominated by political parties which will nominate and canvass for the

⁵¹ Mike Stanleys, interview, 12 December 1995, Pietermaritzburg.

⁵² Ibid.

⁵³ David Ntombela, interview, Pietermaritzburg Provincial Assembly House, 14 December 1995.

⁵⁴ Ibid.

election of their candidates.⁵⁵ Would it be proper in rural areas, said Ntombela, for their system of governance, especially through the people's assemblies like 'Imbizos', to maintain the unity of their people by, for instance, nominating committees without referring to the political affiliation of their members? He then expressed concern that it was possible for any political party which might be opposed in principle to tribal authorities to win local elections and then introduce policies designed to destroy the institution of chiefly rule.⁵⁶ Ntombela's opinion underestimates the provisions made in the interim constitution that chiefs will serve in the democratically structures of local government in an ex-officio capacity.

According to Ntombela, tribal leaders in KwaZulu-Natal themselves believe that new legislation is needed to clarify their status.⁵⁷ This should specify the relationship between democratically elected councillors and tribal authorities. Such legislation could only be passed after it has been referred to the House of Traditional Leaders in terms of the interim constitution.⁵⁸ He added that the other option which could be explored is a District Council model of local government which was provided for in the Interim Constitution.⁵⁹ Significantly,

⁵⁵ David Ntombela, interview, Pietermaritzburg Provincial Assembly House, 14 December 1995.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

Ntombela's opinions here are non-partisan, even though he is aligned to the IFP. He spoke as a concerned tribal leader, not as a member of the IFP.

The Role of Tribal Authorities in the New Local Government.

The specification of a service delivery role for elected local government suggests that traditional leaders will have no powers pertaining to this, except in an ex-officio capacity. However, Patekile Holomisa, as chairperson of Congress of Traditional Leaders of South Africa (CONTRALESA), argues that the ex-officio status which the interim constitution gave them does little to address the role of tribal authorities in the new system of local government.⁶⁰ Perhaps his conclusion is drawn from comparing the provisions made in the interim constitution with existing legislation, promulgated by the former homeland governments, which governs the operation of tribal authorities. But Holomisa's view fails to recognize new local government arrangements in the democratic dispensation. Tribal authorities cannot be the local government in rural areas, because they don't have the resources for implementing development projects and delivering services.

McIntosh notes that the threat tribal leaders pose to establishing a strong local government system derives more from

⁶⁰ P. Holomisa, "The Role of Traditional Leaders in Local Government," in Seminar Report, Konrad-Adenauer-Stiftung, 27-28 October, 1994, p.38.

their current insecurities than from a principled objection to an elected rural local government system.⁶¹ McIntosh holds that an elected system would serve the interests of the people, including those of the tribal authorities. Apart from the problems created by the inefficiency of the chieftaincy during the apartheid period, tribal leaders have been compromised by their inability to orchestrate the delivery of development resources in their localities, due to the centralized and poorly co-ordinated delivery of services.⁶² Perhaps new local government arrangements in the democratic dispensation would free tribal authorities from any accusation about the underdevelopment of the former homelands if elected local governments would take responsibility for delivering services and implementing development projects in rural areas.

But contrary to McIntosh's opinion, Mike Stanleys told me that his department had received reports from some tribal authorities which had expressed concern that the elected structures of local government would undermine their status in rural areas.⁶³ This is the point that Ntombela made. Other tribal authorities even went beyond this, arguing that if elected local government structures become fused with the tribal authorities, then rural development would be neglected.⁶⁴ These tribal

⁶¹ McIntosh, The Rural Local Government Debate in South Africa, 1994, p.25.

⁶² Ibid, p.26.

⁶³ Mike Stanleys, interview, Pietermaritzburg, 12 December 1995.

⁶⁴ Ibid.

authorities are opposed to the idea that their areas of jurisdiction be included in other systems of local government, for example Transitional Local Councils. They argue that these systems of administration are different. Because of this, rural areas would be neglected in favour of urban development.⁶⁵ Their argument is based on the allegation that some of the urban councils are bankrupt and their services have collapsed, and so rural bodies do not want to find themselves having to pay these debts.⁶⁶

Tribal leaders know that were local decisions on development to be placed in the hands of an independent elected body, their influence would inevitably be undermined. Competition and conflict could follow between chiefs and local government, possibly with the consequent weakening of the one by the other. Therefore, there is no doubt that tribal leaders are suspicious that the promotion of democratic local government would lead to the eventual demise of tribal authorities.

This view is similar to that of Tshabalala, who feels that chieftainship is outmoded and ineffective in the development context.⁶⁷ He suggested that young educated men should be allowed

⁶⁵ Mike Stanleys, interview, Pietermaritzburg, 12 december, 1995.

⁶⁶ Ibid.

⁶⁷ Interview with Vusi Tshabalala of Mafunze, 14 December 1995, Pietermaritzburg. Although Tshabalala is a member of the PAC, he was speaking as a concerned resident of the Mafunze Tribal Authority. His views are taken into consideration in this chapter, because they reflect the views of a certain section of the people in the area.

a share in leadership. Tribalism was destined to disappear in the near future and consequently local government must build a new foundation on which development might proceed.⁶⁸ Therefore, democratic principles of self-government, devoid of the constraints and inertia of the tribal system, should be inculcated instead.⁶⁹

Tshabalala maintains that chiefs should not be accommodated in the democratically elected local government structures because to return the chief as a member of a council served merely to undermine his true position as traditional head of the judicial and spiritual system.⁷⁰ Chiefs should be retained and strengthened in their judiciary capacity, and this should be divorced from legislative and executive functions. A clearcut policy of demarcation between the duties of chieftainship and the local government council should be instituted.⁷¹

But Abdul Aweta,⁷² a local member of the IFP who stays at Imbali, disagrees with Vusi Tshabalala. Aweta maintains that both preserving chieftainship and pursuing representative local

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Interview with Vusi Tshabalala, 14 December 1995, Pietermaritzburg.

⁷¹ Ibid.

⁷² Interview with Abdul Aweta, 14 December 1995, at Pietermaritzburg's parliament buildings. Abdul Aweta was part of a delegation of tribal leaders who came for an interview. His view represents those who cherish the institution of tribal authorities.

government are necessary. Customarily, nothing should be allowed to take place in a tribal area without the authority of the chief. The chief's action in lending support to the local authority might considerably enhance its prestige and standing in the area.⁷³ In rural areas, people look to the chief for general guidance and this applied equally to his approval for all activities which take place in the tribal areas.⁷⁴ The tribal organization was still "the only complete and functioning organization and it reaches every layer of the rural population."⁷⁵ Therefore, any scheme for more progressive government "should start on solid foundations, a safe, known, workable basis,"⁷⁶ by, for example, accommodating tribal authorities. Aweta's argument fails to recognise that, according to the interim constitution, tribal leaders would be responsible for all matters regarding their traditions and customs, whereas they would be included only in an ex-officio capacity in the structures of new local government.

It is against this backdrop that McIntosh argues that, in rural areas, elected structures which could be responsible for delivering services could distance traditional leaders from these immediate pressures. A devolved, rationalized local government

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Interview with Abdul Aweta, 14 December 1995, at Pietermaritzburg Parliament Buildings.

⁷⁶ Ibid.

system would be very effective in delivering services.⁷⁷ Under these conditions, tribal leaders, in their ex-officio capacity on elected local councils, could conceivably have much greater influence over local affairs, in spite of the fact that their de jure powers might be more limited.⁷⁸

McIntosh's view is similar to the report by the Commission on Provincial Government, which suggests that traditional leaders could fulfil judicial duties, settle minor disputes in their communities, and carry out ceremonial functions and arbitration roles they presently perform in addition to the cultural and religious roles peculiar to their communities.⁷⁹ This interpretation, the report suggests, would concur with the necessity to distance traditional leaders from party political matters, enabling them to play a unifying role.⁸⁰ However, in my view, this can only be achieved in theory, due to the fact that tribal leaders, especially in the province of KwaZulu-Natal are themselves politicians and political party leaders. The IFP stands as a classic example.

Concerning land issues, the Commission on Provincial Government advised that since the allocation and administration

⁷⁷ A. McIntosh, "The Rural Local Government Debate in South Africa: Centrist Control or Local Development? in Seminar Report, Konrad-Adenauer-Stiftung, 27-28 October 1994, p.26.

⁷⁸ Ibid.

⁷⁹ A Document for the use of the Chairman of the Commission on Provincial Government, Mr T Botha, October 1994, p.9.

⁸⁰ Ibid.

of land impinges directly on development, service delivery and planning, this should become the responsibility of an elected body, under the joint supervision of elected and traditional authorities.⁸¹ This proposal fits in well with the recommendations of the National Land Committee that community land trusts, under private law, or land boards should be established.⁸² These could be composed of elected or user representatives, as well as planning and development officials from the local and/or district council, with chiefs and *izinduna* on an ex-officio basis.⁸³ Tribal leaders and their *izinduna* would serve on such boards in an ex-officio capacity, enabling broader decision-making over land allocation and management, while allowing traditional leaders to retain their role as custodians of customs and tradition.

However, the separation of functions as suggested by the National Land Committee is complicated because land allocation and management powers presently vested in traditional leaders have been central to the authority of tribal authorities. As the custodians of land, tribal leaders can grant or refuse land under their jurisdiction to people wishing to move into a particular area, and they have the power to force people off the land.⁸⁴ This was one means through which loyalty to tribal leaders of the

⁸¹ Ibid.

⁸² AFRA News, June 1994.

⁸³ Ibid.

⁸⁴ D. Hornby, "Ingonyama Land Trust," The Natal Witness, 24/05/1994.

rural communities was maintained. There is the possibility, therefore, that tribal leaders would resist implementing a new form of land administration in rural areas if it would entail cutting off one of the main sources of their authority. But the advantage of this new arrangement is that it would enforce accountability in dealings with land in the rural areas. This is important because this issue frequently proved controversial in the former KwaZulu, where allegations of corruption had been levelled against traditional authorities.⁸⁵

In resisting the new local government arrangements, about 260 *amakhosi* of KwaZulu-Natal, under the banner of the IFP, agreed upon five resolutions at a conference which took place in Ulundi on 14 October 1994. Firstly, the *amakhosi* of KwaZulu should remain the primary administrators of traditional communities, exercising the powers of local government by means of traditional councils.⁸⁶

⁸⁵ In his research in KwaZulu, Zulu observed that nine out of every ten respondents who required a site on which to build a house had to make some monetary payment either to the chief or to the local headman (*induna*). In addition, 35 per cent of those interviewed stated that they had to pay annually either for their sites or for their fields, or even for both. Zulu notes that in one area in particular, inhabitants were charged an annual levy of R2 for the use of a field, and if that was not paid, they forfeited their rights to plough or plant for that particular year. Although not all tribal authorities in KwaZulu-Natal are corrupt, this gives an indication as to what is going on. See P.M. Zulu, "The Rural Crisis: Authority Structures and their Role," in H. Giliomee and L. Schlemmer (eds), Up Against the Fences: Poverty, Passes and privileges in South Africa, Cape Town: David Philip, 1985, p.243.

⁸⁶ Inkosi Nyanga Ngubane, "The Role of Traditional Leaders in Local Government", a paper presented at a conference hosted by the Chairman of the Commission on Provincial Government, Mr. T. Botha, on the role of chiefs in local government, in Durban on the 27-28 October 1994.

Secondly, traditional councils should be part of overarching local government structures, namely, Regional Councils, which should also include District Councils encompassing rural areas and Municipal Councils for all municipalities which cannot stand alone as metropolitan authorities.⁸⁷

Thirdly, the *amakhosi* agreed that Regional Councils should be elected by proportional representation to ensure the proper representation of the people living in traditional communities. These councils should have all powers of economic and social development necessary to promote the well-being of traditional communities.⁸⁸ Fourthly, traditional communities should gear up to participate in elections for Regional Councils.⁸⁹

Fifthly, the *amakhosi* and their traditional communities should participate in establishing local government structures, Regional Councils and related electoral processes only once the overall framework for the establishment, preservation and restoration of the Kingdom of KwaZulu has been established.⁹⁰ This should include: the adoption of a Provincial Rural Local Government Act; a constitution for the province of KwaZulu-Natal, establishing it as the Kingdom of KwaZulu; and an overall constitutional framework for the Republic of South Africa which

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Nyanga Ngubane, "The Role of Traditional Leaders in Local Government" p.40.

would provide the Kingdom of KwaZulu with the required autonomy and self-determination within a unified South Africa.⁹¹

Judging from these resolutions, one can see that they are tantamount to rejecting the provisions made in the interim constitution. Besides this, they reflect the stance of the IFP on issues such as self-determination and federalism. They also reflect the continuation of the relationship between the IFP and many tribal leaders which started in the 1970s soon after the formation of Inkatha Yenkululeko Yesizwe. Chief Nyanga Ngubane, who presented these resolutions at the conference in Durban, is a provincial cabinet minister as well as a senior member of the IFP. This explains why these resolutions go beyond issues concerning the role of tribal authorities in democratic government in that they are linked to the questions of self-determination and the establishment of a Kingdom of KwaZulu-Natal.⁹² These are also precisely the matters on which the IFP has been pressing for international mediation.⁹³

The Role of Tribal Authorities in Development Programmes.

Despite whatever demands the IFP chiefs make, the interim constitution has stated clearly that their role in the democratic dispensation would be neither that of local government nor that

⁹¹ Ibid.

⁹² This probably also explains why the IFP's Constitutional proposals insulate tribal leaders from other political parties.

⁹³ For more details, see Chapters Two and Three.

of service delivery, but instead would be limited to assisting in making decisions about implementing development projects in rural areas. This is because of the experience the chiefs have in their communities.

A report of the Commission on Provincial Government states that tribal authorities in South Africa control approximately seventeen million hectares of land.⁹⁴ They rule underdeveloped areas with a high population density. The basic needs such as water, employment, shelter, sources of energy and food are therefore, considerable. The areas of jurisdiction of the tribal authorities are, consequently, prominent among those for which the Reconstruction and Development Programme (RDP)⁹⁵ is intended. It is important for the implementation of the RDP in these rural areas to be carried out in consultation with the tribal authorities, who should be involved from the outset.

Most tribal leaders have the capacity to influence their communities to act in a certain manner. This offers an opportunity for local government to utilize the experiences of the chiefs in executing development projects in rural areas.

The successful implementation of development programmes will

⁹⁴ Annexure A, Document for the use of the Chairman of the Commission on Provincial Government, Mr T. Botha, October 1994.

⁹⁵ The Reconstruction and Development Programme has been set up by the Government of National Unity to rebuild, reconstruct, and develop the areas which were neglected during the apartheid era. Prominent here are the former homelands where basic needs such water, electricity, housing are in desperately short supply. For more details see T. Botha, "The Future Role of Traditional Leaders," a paper presented at the workshop in Durban, on 28 October, 1994.

depend on cooperation between local government and the tribal authorities and rural communities. It was this lack of cooperation which crippled the duties of local government in the rural areas of the KwaZulu Bantustan. My own research in Vulindlela district,⁹⁶ in August 1994, substantiates this.

In Vulindlela, the task of investigating development projects in the areas of the tribal authorities was given to the Community Development Committee.⁹⁷ This Committee was responsible for facilitating local coordination services and raising funds from non-government sources.⁹⁸ To a large extent these committees were autonomous enough to carry out functions by themselves, although they have to report back to the tribal authorities at various times. In essence, they make proposals to

⁹⁶ In this research I chose Vulindlela as a case study, hoping that what is going on in the tribal areas of this district would give me a rough indication as to the problems of rural KwaZulu-Natal.

⁹⁷ Community Development Committees are ordinarily established to pursue some common interest. They might be established at regional authority or at tribal authority level, or at ward level by an *inkosi* or an *induna*. They may also be established by community members themselves, or with the assistance of an outside agency, for example, by government or non-governmental organizations. Committees established in this way would still require the official approval of the tribal authority. They normally have a specific focus, for example, education, water, etc. They might be established as temporary committees which would disband once their aims were achieved, or they were no longer useful.

Nominations for these committees are normally made by members of the community who also have the opportunity to reject them. They are ordinarily led by a chairperson approved by the *inkosi* or *induna*. The committee are given the role of advising on policy as well as carrying out certain tasks.

⁹⁸ This information was gathered in an interview I held with Mr Ncube the Magistrate of Vulindlela district, based at Edendale, on 14 August 1995.

the *inkosi* or *induna* who must, in consultation with the councillors,⁹⁹ ratify or reject the committees' proposals.

When asked why these functions could not be undertaken by the existing office-bearers within tribal authorities, replies included:

- * *chiefs and izinduna do not always have the time to get involved in other activities;*
- * *some chiefs and izinduna have no direct interest in various activities;*
- * *and educated people who are not members of the Tribal Authority need to be employed.*¹⁰⁰

These are some of the problems the tribal authorities in Vulindlela were facing in 1994. Since there was no cooperation between the communities and the *izinduna* or *amakhosi*, the implementation of development projects and the delivery of services was not successful. Mainly this was so because community development depended on self-help projects which used to depend on voluntary social groups which supported them.

Another crucial issue which complicated the functions and the effectiveness of tribal authorities was the election of Community Development Committees. Chiefs who had some experience

⁹⁹ Councillors are a small group of people who are elected to be the advisors to the chief. They are drawn from the ranks of headmen, sub-headmen and prominent members of the community who are acknowledged for their skills and leadership qualities.

¹⁰⁰ Interview, Mr Ncube, Magistrate of Vulindlela district, 14 August 1994.

with the committees regarded the election of office bearers at mass meetings as counter-productive.¹⁰¹ This was so because the people elected had no interest in many of the activities discussed. Most development committees established in this way were known to have disintegrated. As a result, a pragmatic solution had been adopted in many areas of Vulindlela district, where a chief appointed individuals to the development committees whom he considered skilled and had an interest in different aspects of development.¹⁰² But the problem was that such committees lacked accountability in the eyes of some sections of the community, so much so that they were even regarded as the puppets of the tribal leaders.

On this issue, concern was expressed by Mr Ncube, magistrate of Vulindlela district, regarding the significance of elections for community authorities. He conceded that elections do not necessarily help in fostering accountability. He cited an example. One community authority had done a lot of good work in getting the Umgeni Water Board to deliver reticulated water and charges were made for the purchase of water. However, members were thrown out through the (dishonest) electioneering of an opposing group who thought that the community was being overcharged for water. Since then the community has been split

¹⁰¹ Interview with Magistrate Ncube of Vulindlela district, Edendale, 14 August 1994.

¹⁰² Interview with Chiefs, V.A. Ngcobo of Mafunze, N.W. Zondi of Mpumuza, S.G. Zondi of Inadi, 14 August 1994.

in two. And this had also contributed to the escalation of violence in the area.¹⁰³

This suggests fundamental constraints on upgrading local authorities in rural areas - the problem of generating accountable structures. It is a problem that will have to be addressed by the new local government structures, as part of their task of delivering services in rural areas.

The fact that the Black rural population is organizationally and economically disadvantaged in lobbying for national development or welfare resources has to be recognized. Expecting a multiplicity of organized interest groups to lay the foundation for representative development committees could well be misconceived. This point was well expressed by Chief Zondi, one of the more prominent chiefs in the area. Zondi stated that people were used to having committees appointed for them by the chief. This was consistent with the way *izinduna* and councillors were selected and appointed. Consequently, democratization would be a slow process because of the absence of a democratic culture and because people were used to having chiefs do things for them.¹⁰⁴ Even so, chiefs claimed that it was not in their interest to appoint development committees on behalf of the

¹⁰³ Interview with Ncube, Magistrate of Vulindlela district based at Edendale, 14 August 1994.

¹⁰⁴ Interview with Chief S. Zondi of Inadi Tribal Authority, Vulindlela District, 14 August 1994.

people.¹⁰⁵ This only happened because people look upon the chiefs as leaders who could be trusted to choose what is best for their communities.¹⁰⁶

The establishment of a new form of local government could relieve tribal authorities from the pressure they face from their communities to deliver services. The new system could help tribal leaders to regain part of the respect they lost due to their failure to operate as local government structures in the former KwaZulu Bantustan. For instance, in the Vulindlela district, the relationship between tribal leaders and some sections of their communities was not at all good. They viewed one another with suspicion. The chiefs interviewed can be easily be divided into progressive chiefs, prepared to work and to attract influential people (such as teachers, nurses, etc) to become active in local affairs; and conservative chiefs less willing to delegate authority.

On this, Chiefs S. Zondi, N. Zondi and V. Ngcobo revealed that educated people and those who have business sites used to pursue matters on their own without taking other people's feelings into account. For instance, if a chief called a mass meeting in the tribal areas, people did not bother to attend. Some of them even said, 'look at those poor people, they are

¹⁰⁵ Interview with Chiefs from Vulindlela district, N. Zondi, S. Zondi and V.A. Ngcobo, 14 August 1994.

¹⁰⁶ Ibid.

having a meeting there.¹⁰⁷ Likewise Chief V.A. Ngcobo of Mafunze complained that whenever members of the community came to see chiefs who were not well dressed, who did not own motor vehicles and who were illiterate, they were looked down upon.¹⁰⁸

While my feeling is that elected structures will alleviate the burden of tribal authorities from duties such as delivering services and implementing development projects, how far this will be successful remains an open question. Where low levels of education and lack of knowledge about procedures limit the capacity of chiefs to exercise fully limited de jure powers, it is understandable that democratically elected local government bodies like development committees, which have some independent decision-making powers, would be seen by some chiefs as a potential threat. For instance, Chief N. Zondi of Inadi admitted that some chiefs and councillors did not favour development committees because often the people who were elected, particularly the educated ones, were against the institution of chieftainship. Because of this, the chiefs felt threatened.¹⁰⁹ Here one sees the resistance that could occur in incorporating tribal authorities in the structures of the democratically elected local government.

¹⁰⁷ Interview, Chief N. Zondi of Inadi and Chief S. Zondi of Mpumuza, 14 August 1994.

¹⁰⁸ Interview with Chief V.A. Ngcobo of Mafunze, 14 August 1994.

¹⁰⁹ Interview, Chief N. Zondi of Inadi, 14 August 1994.

The extent to which existing traditional leaders would be prepared to tolerate elected local government being accorded the sole responsibility for delivering services is crucial to the future of democratic rule in the rural areas. It is, therefore, important to redefine the role of tribal authorities in local government in terms of possible different forms of participation. The failure of tribal authorities to carry out development duties in the rural areas of the former homelands arose due to their own weaknesses. Tribal authorities proved unwilling to delegate authority, and they also limited the possibilities of meaningful participation. Elected local government structures could be a remedy to the problems that rural communities have been experiencing. Democratic local government may well serve the interests of these rural communities who would elect them to office. For, quite apart from the problems created by chieftaincy being politicized during the apartheid period, tribal authorities have been compromised by their inability to oversee the development of their communities.

However, the necessary steps to resolve these difficulties must be undertaken with the support of the existing tribal leaders, and the traditional channels for consultation and communication must be utilized. This process could take place as provided for in the interim constitution, in that chiefs should be included in elected bodies of local government in an ex-officio capacity.¹¹⁰ In this way a chief could continue to make

¹¹⁰ Section 181 of Interim Constitution of the Republic of South Africa. The interim constitution does, however, provide that a chief has the right to stand for the election if he so

his voice heard, while also lending his prestige and his influence to the elected local councils.

In a democratic dispensation, elected local government structures would be responsible for implementing development projects and delivering services to the communities in rural areas. This would relieve tribal leaders of these responsibilities. Under these conditions, tribal leaders, in their ex-officio capacities on elected local councils, could have a much greater influence over local affairs. While this might provide a short-term solution to the future role of the tribal authorities in local government, the success of this arrangement will be judged by how effectively they improve people's material well-being in the rural areas of KwaZulu-Natal.

wishes.

CONCLUSION

Although the institution of tribal authorities is characterized by ethnicity, it does not mean that it cannot be incorporated in the structures of democratic government in the post-apartheid South Africa. Ethnicity as a concept is not an enemy of democracy. On the contrary, ethnicity nurtures democracy in that it becomes a social identity that shapes people's behaviour through the way they interpret the world. It also becomes a vehicle through which people can express cultural variety within a large commonality.

Since tribal authorities are part of the reality of South African politics, they cannot simply be ignored. Their role in a democratic order requires analysis. This can serve as a means of trying to ascertain how traditional authorities can make a constructive contribution to South Africa's new democracy.

In the opening chapter of this thesis, we saw that the institution of tribal authorities was utilized in the administration of rural areas by different governments that came to power in South Africa during the period of colonization in the early 19th century. This suggests that the institution of tribal authorities is neither useless nor stagnant, but rather it is flexible, so much so that it can easily adapt to any political environment. Perhaps this indicates that the present government in South Africa, like the previous governments, can also utilize

tribal authorities, if proper ways to restructure them can be formulated to suit the prevailing democratic dispensation.

Nevertheless, the question is why should the institution of tribal authorities be incorporated at all in structures of democratic government. There are many reasons, but the major one is that its incorporation will serve the cause of democracy. Regimes or governments can be said to be democratic if they are acceptable to their communities, and if they include all relevant groups in society. Democracy is a matter of degree, depending on the extent of popular influence in decision making. This degree is measurable by the extent to which all groups (traditional¹¹¹ and modern, rural and urban) can play a role in communal decision-making, by the extent to which government decisions are subject to popular control, and by the extent to which ordinary people are involved in the running of the community, in public administration in the widest sense. To this end democracy entails accommodation and compromise.

Secondly, including tribal authorities in democratic government will allow expression for an underlying assertion of African nationalism in a political system known for its suppression, its manipulation and exploitation of African national symbols. Excluding the institution of tribal authorities

¹¹¹ Traditional authorities are regarded as the custodians of the traditions and customs of the traditional groups. This being the case, the inclusion of tribal authorities in the structures of the democratic government would entail the representation of the traditional groups.

from any form of accommodation in the structures of democratic government would imply another form of segregation.

Before we take a closer look at what role tribal authorities can play in the structures of South Africa's democratically elected government, the question is how to accommodate them. In order to have a rough idea of how tribal leaders could work at national, provincial and local levels, an examination of the experiences of other countries could be useful. The British system of government is a case in point.

The British have managed to work out a marriage between their traditions and the demands of modernity. From tradition, they have maintained a monarchy and the House of Lords; the House of Commons emerged out of the needs of modernity. Together, the House of Commons and the House of Lords form Parliament.¹ Even though the requirements of modernity and democracy have led to a vast reduction in the power of the House of Lords, in favour of the House of Commons, the former has not been consigned to the dustbin of history. A recent study has concluded that the "Lords does still occasionally delay legislation; mainly, however, it serves as a debating society, and as a locus at which the government can accept amendments to its proposals that it would be less willing to accept in the more politicized House of Commons."² The House of Lords serves a useful function in British

¹ H. J. Laski, Parliamentary Government in England: A Commentary, New York: The Viking Press publishers, 1939, p.40.

² M. Donald Hancock, et al., Politics in Western Europe, London, 1993, p.32.

policy making despite its diminished role, as many crucial modifications to parliamentary legislation result from the attention of the Lords.³

Besides this, the British have combined the elective and non-elective principle in the composition of Parliament. Members of the House of Lords are not elected: some have seats through hereditary membership; others are life lords appointed by the monarch, but only for the life of the appointee.⁴ The non-elective principle can enable a fair number of members to view public matters with greater objectivity than those who get into Parliament through election.⁵ It is not surprising, therefore, to find out that important alterations to British legislation result from the intervention of the House of Lords.⁶

In my view, I think that South Africa could learn a lesson from the manner in which the British model of Parliament has tried to work out a synthesis between tradition and modernity. As provided for in South Africa's interim constitution, there should be a component of traditional leaders included in all

³ A. Todd, Parliamentary Government in England: Its Origin, Development, and Practical Operation, London: Sampson Low, Marston & Company, 1960, p. 3.

⁴ M. Donald Hannock, et al. Politics in Western Europe, London, 1993, p. 32. See also A. Todd, Parliamentary Government in England, pp. 5-7.

⁵ Ibid.

⁶ According to Todd, the task of the House of the Lords is to control, revise, and amend the projects of legislation which emanate from the House of Commons. See A. Todd, Parliamentary Government in England, p.7.

three tiers of government, local, provincial, and national. It does not matter whether these traditional elements of legislative bodies will be restricted to dealing only with traditional and customary matters. What is important is that they should be given the right to discuss, propose, and the opportunity to review legislation that directly affects their tribal communities. As a result of their historical responsibilities, traditional leaders could exert a definite influence on the legislation of provincial legislatures in particular, because this is the level where the decisions concerning the welfare of their communities will be taken. However, tribal leaders serving their House at national or provincial levels should direct their political aspirations and demands towards the betterment of their own communities.

While lessons from other countries could be drawn to help us define the role of tribal authorities at national and provincial levels, a problem lies at the local level. There are many varied views about the role of tribal authorities in local government in South Africa. Most political parties are in agreement over the need to include the institution of tribal leaders in local government. But there is no unanimity as to how this might be achieved. Nevertheless, the interim constitution offered some hints. Section 182 of the interim constitution, for instance, states that tribal leaders were to be made ex-officio members of any elected council in their areas.⁷ The implication

⁷ The Constitution of the Republic of South Africa, Act No. 200 of 1993.

here is that, in the democratic dispensation, local governments will be made up of democratically elected structures, and that tribal authorities will be accommodated in an ex-officio capacity. In my view, this provision is intended to honour the position of tribal leaders, whilst at the same time preserving the elective and representative character of democratic local government. Besides this, in democratic countries local government is perceived as the democratisation of decision-making at the grassroots. The participation of tribal authorities will be particularly important for rural communities which are often neglected in decision-making in national government.

The question which has remained unanswered, though, is whether tribal leaders should serve in local government only in an ex-officio capacity, or whether they should also be allowed to stand for election in a ward. Or should they qualify to do both in a dual system? The interim constitution provided that tribal leaders are eligible to be elected to any office of local government.⁸ Similarly, a report of the Constitutional Assembly Theme Committee 2 acknowledged the right of traditional leaders to stand for election; and insisted that when elected they should take seats as ordinary citizens.⁹ The report also states that where traditional leaders enjoy ex-officio status on elected

⁸ Section 182 of the Interim Constitution of the Republic of South Africa, 1993.

⁹ Constitutional Assembly. Theme Committee 2 Structure of Government: Core Group Meeting, 21 August 1995, p.18.

structures, this arrangement should be subject to periodic review.¹⁰

A related issue is whether tribal leaders who seek elective office should relinquish their status as traditional leaders. And if they should, whether this should be permanent or temporary. CONTRALESA favours individuals being reinstated as traditional leaders by the community if it so wishes, when a leader has completed a term of office.¹¹

The provision made in the interim constitution delegating elected officials to provide services is advantageous to the institution of tribal authorities, in that this would distance traditional leaders from immediate pressures in their communities. As already discussed in the previous chapter, in many rural areas traditional leaders have lost their dignity and are blamed for the underdevelopment of their localities, due to the inefficient and poorly co-ordinated delivery of services during the apartheid era. A devolved and rationalised local government system would facilitate a locally accountable and responsive service delivery. Moreover, under these conditions, traditional leaders, in their ex officio capacities on elected local councils, could have much greater influence over local affairs, in spite of the fact that their de jure powers might be more limited. This could also be beneficial to tribal leaders,

¹⁰ Ibid.

¹¹ Constitutional Assembly. Theme Committee 2 Structuring of Government Core Group meeting, 21 August 1995, p.5.

because, unlike elected local councils, they could be expected to continue to exercise the judicial and arbitration roles they presently perform, in addition to the cultural or religious roles peculiar to their communities.

The most problematic issue at local government level is land. Ninety-three per cent of tribal land in Kwazulu-Natal is vested in the Ingonyama Trust. The beneficiaries of the Trust are the relevant tribe or community.¹² The only trustee is the King of the Zulus.¹³ And land cannot be leased or alienated in any way without the prior written consent of the affected traditional authority.

Since the power over land is vested in tribal authorities, this probably will affect the duties of elected local government. The difficulty here is that the terms of The Ingonyama Trust Act could undercut the activities of elected local authorities in rural areas. It could also limit the options open to rural local government development, since dealings about land must happen through the traditional authorities. Secondly, as none of the tribal land is privately owned, the rating of the communally owned land will be problematic in a metropolitan context. Should the community pay the rates, or is it the responsibility of the Trust? Thirdly, the rendering of, and payment for, services is a further complication. This is even further exacerbated by the

¹² Section 2(2) of The Ingonyama Trust Act (Act No.3 of 1994).

¹³ Ibid, Section 2(3).

fact that none of the affected tribal areas has been subdivided. Consequently, no individual sites have been demarcated.¹⁴

As I discussed previously, no-one has come up with a satisfactory solution to the practicality of including communally owned tribal land in a democratic local authority. My suggestion is that, since the allocation and administration of land impinges directly on development, service delivery and planning, this might ultimately have to become the responsibility of an elected body, perhaps under the joint supervision of the elected and traditional authorities. Possibly a land board could be formed, constituted by elected or user representatives, as well as planning and development officials from the local and/or district council, with the chiefs and headmen on an ex officio basis.¹⁵

Since to a large extent the current role of traditional leaders and their *izinduna* pertaining to land allocation tends to be that of vetting agreements that have already been struck between existing and aspirant landholders, land boards would simply provide a mechanism for broadening representation and for ensuring that such transfers occur in a manner that is consistent with legal and planning requirements.¹⁶ Such a structure would

¹⁴ The information that no individual sites have been demarcated in the province of KwaZulu-Natal, was provided to me by Mike Stanleys, Director of the Department of Local Government, in the interview, on 12 December 1995, Pietermaritzburg.

¹⁵ A. McIntosh, "The Rural Local Government Debate in South Africa: Centrist Control or Local Development," in Seminar Report, Konrad-Adenauer-Stiftung, 27-28 October 1994, p.29.

¹⁶ "The Ingonyama Trust to Remain" in Association For Rural Advancement News, (AFRA) June/July 1994, p.10.

also enable traditional leaders to retain their custodianship role over land.¹⁷

My proposals would not be possible in the short-term, given the present insecurity of traditional leaders. Negotiations on establishing local government structures in communal areas would need to take place after, or in conjunction with, the creation of new mechanisms for supporting, enlightening and upgrading the activities of traditional leaders. This would be in line with literature on community development which generally states that "you should start where you are and with what you have."¹⁸ In other words, it is essential to work in harmony with the pervading values, customs and institutions of the people.

One controversial issue which has arisen in the democratic dispensation is the remuneration of tribal leaders. The Government of National Unity proposed that tribal authorities should be remunerated by the central government.¹⁹ The IFP objected, arguing that paying chiefs is the responsibility of provincial government. While this might be true, it may be best if tribal leaders were remunerated by central government. Then equity in the stipends of tribal leaders in all the provinces will then be maintained. Before the remuneration of tribal

¹⁷ Ibid.

¹⁸ G.C. Passmore, Theoretical Aspects of Local Government and Community Action, Salisbury: A. W. Bardwell & Co. (Pvt) Ltd., 1971, p.34.

¹⁹ The Government of National Unity made such a proposal through the Remuneration of Tribal leaders Bill which was passed in Parliament in Cape Town on 27 June 1995.

authorities bill was proposed in 1995, it came to the attention of State President Nelson Mandela that while the status of tribal leaders all over the country is the same, some leaders in some provinces do not get remuneration at all, and some get paid more than others in the same province.²⁰ Remuneration is used by politicians as a means of obtaining the loyalty of tribal leaders for political gain. Therefore, to bring to an end such unacceptable practices, the President suggested that chiefs' pay should be the responsibility of the central government.

The observation of President Mandela is similar to what has already been addressed in the opening chapter of this thesis about what was happening in the former KwaZulu Bantustan. According to Tandy and Botha's report on local government in the former KwaZulu, the selection of KwaZulu Legislative Assembly members occurred through the Inkatha Central Committee. For chiefs, loyalty to KwaZulu and Inkatha was essential so that they could gain access to both political power and financial remuneration.²¹ This was a significant incentive for KwaZulu Legislative Assembly members not to compromise their position, since disloyalty to Inkatha was likely to result in chiefs losing political favour, with a subsequent loss of earnings.²²

²⁰ See The Natal Witness, 28/06/1995, 29/06/1995.

²¹ T. Botha, P. Tandy, and N. Ismail, Report on Intergovernmental Relations in Zimbabwe, Botswana and Namibia, University of Western Cape, November 1992, p.57.

²² See A. McIntosh, Option for Rural Local Government, 1992, p.140.

But why should tribal leaders be remunerated at all? They should indeed be because they perform official duties in rural areas which should qualify them for government salaries. For example, my own research discovered that tribal authorities process pension forms, register births and deaths in rural areas, pursue development projects, distribute land, settle minor disputes, welcome visitors to tribal areas, report outbreaks of disease both for humans and domestic animals, impound stray animals, control illegal immigration in rural areas, and organize labour for self-help projects. Indeed, with the advent of the democratic dispensation, the delivery of services and the implementation of development projects will be in the hands of elected local government structures. Land allocation will also be administered jointly by the elected structures of local government and tribal leaders. Tribal authorities will continue to carry out some duties such as settling minor disputes, and the magistrates' court will only act as courts of appeal. Similarly, the current tasks that tribal authorities perform, the ones I have just listed, will continue to remain in their hands. These duties are not the responsibility of elected local government. Since magistrates are paid for settling disputes and members of parliament are paid for representing their areas or constituencies, then tribal leaders should also be remunerated because they are performing duties for their communities on behalf of both the South African and KwaZulu-Natal governments.

Another highly problematic issue concerns traditional leaders and the Bill of Rights. Always a controversial subject,

the matter of traditional leadership under a bill of fundamental rights is a focus of widely differing views. Yet, there is enough language in the interim constitution to subject the institution of tribal leaders to the Bill of Rights. The Constitutional Assembly Theme Committee 2 points out that the key difficulty might well lie in the view expressed, for instance, by the Zulu King's Council (and heard frequently at the Public Hearing on Traditional Leaders) that the Bill of Rights in its pure Western form may not be suitable for South African conditions and that it may have to be adapted to absorb certain positive aspects of the traditional way of life.²³

Comments on the negative aspects of traditional leadership in a human rights context revolve around women, equality and hereditary rule. The argument is that granting institutions of traditional authorities an enhanced constitutional status is contradicting in a democratic, non-racial and non-sexist constitution, where tribal leadership is by definition hereditary and patriarchal.²⁴ However, in terms of the current socio-political climate of political transition in South Africa, this special protection of tribal authorities is necessary.

Nevertheless, should the hereditary and undemocratic character and functions of tribal authorities be left intact, it

²³ Constitutional Assembly Theme Committee 2 Structure of Government: Core Group Meeting, 21 August 1995, p.19.

²⁴ Y. Mokgoro, "Traditional Authority and Democracy in the Interim South African Constitution," in Seminar Report, The Role of Traditional Leaders in Local Government in South Africa, 27-28 October, 1994, p.17.

will frustrate the very ideals of a new democracy. Although the hereditary nature of traditional leadership may be acceptable, its exclusively male character should change. The gender imbalances of traditional leadership structures should be redressed by including women at all levels of traditional authority. Currently, there is only one female chief in the whole province of KwaZulu-Natal. If the exclusion of women in the tribal structures is not addressed, it follows that the newly created Provincial Houses and the Council of Traditional Leaders will be virtually all male. "If women are elected to local traditional government structures, the electoral process could place them on regional and national traditional structures even before their inclusion in the line of succession."²⁵ This would inject these structures with an element of representivity and enable them to find common ground on views and recommendations to be submitted to legislatures. Mokgoro goes on to argue that "the institution of traditional authorities should not of necessity be characterized by the loyalty of its functionaries but by the traditional character of its functions. Government within traditional communities should be established through the electoral process."²⁶

According to Mokgoro, at local level the electoral process should draw from the broader community, which would necessarily include women. The local chief or chiefs and other hereditary traditional leaders should subject themselves to this political

²⁵ Ibid.

²⁶ Ibid.

process.²⁷ These local structures should then become the sources for elected representatives on regional structures, where the latter would in turn feed into national traditional structures.²⁸ Mokgoro adds, "if royalty participates in decision-making, it should be because they have been placed in that position by a broad community mandate."²⁹

My overall assessment, therefore, is that the incorporation of the institution of tribal authorities in a democratic South Africa cannot be achieved by legislation without the commitment of either the tribal authorities themselves, or the major political parties, especially, the ANC and the IFP. In KwaZulu-Natal, the incorporation process relies on the extent to which there is cooperation between the ANC and the IFP. At the moment this appears to be a chimera. Primarily this is so because issues concerning tribal authorities have become intertwined with political struggles, disagreements and tension between the ANC and the IFP.

Ethnicity is an important factor here because for some politicians, it is a mobilizing strategy of considerable strength. Ethnicity as a social identity needs to be separated from political mobilization and the manipulation of ethnic sentiments. I am aware that in KwaZulu-Natal politicised

²⁷ Ibid.

²⁸ Y. Mokgoro, "Traditional Authority and Democracy in the Interim South African Constitution," 1994, p.17.

²⁹ Ibid.

ethnicity arises, in large part, out of frustrated economic and political goals. To resolve conflict where ethnicity motivates immediate behaviour, it will have to be sensitive and self-consciously depoliticised and separated from the arena of competition for resources, privilege, power and rights in the democratic dispensation.

If tribal leaders can rise above party politics, ethnicity in Black communities will meet the real needs of security, in that it will de-emphasize group consciousness in the political arena. Nevertheless, such a de-emphasis need not entail the denial of cultural variety, ethnic consciousness, or the desirability of a range of social identities. It should, however, make these integral to democratic practice within society.

What remains unanswered is the question as to what the most satisfactory solution to the problem of the institution of tribal leaders is in rapidly modernizing states. My entire discussion shows how complex this issue is. Bearing in mind that these issues are intertwined with those of party politics, my main line of argument would not entirely satisfy traditional leaders. This is because some political parties encourage tribal leaders to resist change which could be conducive for democracy, by warning them that if they respond to the new order, they will lose their current powers. This might well be true, but as long as politicians continue interfering with the affairs of tribal authorities, the institution of chiefly rule will remain an unresolved problem in South Africa's fledgling democracy.

However, precisely because tribal leaders are an integral part of African culture, doing away with the institution of tribal authority would be socially unacceptable and politically irresponsible. Still, this does not absolve traditional authorities from changing circumstances. Tribal authorities must evolve into appropriate repositories of African culture which can coexist with a rising democratic culture in South Africa in general, and in KwaZulu-Natal in particular.

APPENDIX

1. The King will be recognized as King with constitutional powers, prerogatives, rights and obligations which will extend throughout the province of KwaZulu-Natal.
2. He will have and exercise directly or indirectly both ceremonial and traditional powers and prerogatives which will be specified in a constitution of KwaZulu-Natal.
3. The King will have the right to establish a royal court.
4. The King will open the proceedings of the KwaZulu-Natal provincial parliament every year.
5. He will be advised by a Royal Council comprising the premier of the province, members of the Royal House of the Kwazulu, a specified number of members of provincial parliament and a number of traditional leaders in the province.
6. The King will be empowered to designate a member of the Royal House as his adviser and assistant on all traditional and customary matters.
7. The King will install all tribal chiefs.
8. Finally, the King will have a budget allocation that will be approved annually by the provincial legislature.¹

¹ "What Mandela Offered the Zulu King" The Sunday Nation, 10 April 1994, p.3.

BIBLIOGRAPHY

The sources consulted in the preparation of this thesis are organized as follows.

1. PRIMARY SOURCES

- i) Documentary Material
- ii) Interviews

2. SECONDARY SOURCES

- a) Books
- b) Articles in Journals and Periodicals
- c) Reports and Working Papers
- d) Conference Papers, Theses and Commissioned Papers
- e) Newspaper Articles

1. PRIMARY SOURCES

- i) Documentary Material

Annexure A, Document for the Use of the Chairman of the Commission on Provincial Government, Pretoria: Mr T. Botha, October 1994.

Annexure A, Discussion Document on Rural Local Government, Pretoria: October 1994.

Constitutional Guidelines for a Democratic South Africa: African National Congress Proposals 1955 and 1988, Cape Town: Institute for a Democratic Alternative for South Africa, 1989.

Constitutional Assembly, Theme Committee 2, Structure of Government, Core Group Meeting, Pretoria: Monday 21 August 1995.

Constitutional Assembly, Theme Committee 2, Structure of Government, In-House Workshop Traditional Leaders (held in Pretoria on 3 April 1995)

Discussion Document on Future non-Metropolitan Local Government Work Group Rural Local Government, Pietermaritzburg, 24 January, 1994.

Document Park For the Meeting of the Plenary of the Multi-Party Negotiating Process, Vol.4, 17 November, 1993.

Government Gazette, Transitional Local Government Act 1993, Act No.209, 1993, 2 February 1994.

Government Gazette, No.15466, 28 January 1994, The Constitution of the Republic of South Africa, 1993, Act No. 200, 1993, Pretoria.

Government Gazette, "Chapters 10 and 11 The Constitution of the Republic of South Africa, 1993, Act No. 200, 1993," 28 January 1994, Pretoria.

Ingonyama Trust Act, Act No.3 of 1994.

Inkatha Freedom Party, Constitutional Committee of the Provincial Legislature of KwaZulu-Natal, 3 October 1995.

KwaZulu-Natal Indaba: Constitutional Proposals, Durban, (KwaZulu-Natal Indaba) 1986.

KwaZulu-Natal Indaba: Constitutional Proposals an Memoranda, Submitted to the Minister of Constitutional Development and Planning on 31 January 1987, Durban.

KwaZulu Government Notice No. 257 of 1991, "The KwaZulu Amakhosi and Iziphakanyiswa, 1990 Act 9 of 1990.

Republic of South Africa Government Gazette, No. 1643, G.N. 1413, The Establishment of the Buthelezi Tribal Authority in the Mahlabathini District, 17/9 1965.

Republic of South Africa Blue Book, R.P. 44/1972, Report of the Department of Bantu Administration and Development for the Period 1 January 1970 to December 1970.

Republic of South African Government Gazette, No. 3436 Proc. R. 70 of 1972, Establishment of KwaZulu Legislative Assembly, 30 March 1972.

Rural Local Government in South Africa: Policy Proposals for the Structure and Functioning of Rural Local Government During the Transition and Final Phase of Local Government Reorganization, December 1993, Pretoria.

South African Government Gazette, No. R.69, G.G. 3436, March 1972, Pretoria.

The Constitution of South Africa Second Amendment Act, 1994.

The African National Congress' Provincial Draft Constitution, 23 October 1995.

The Green Paper, Constitutional Principles Adopted by the Legislature of KwaZulu-Natal, 3 October 1995.

The Provincial Gazette of KwaZulu-Natal, No.7, 1994, The Kwazulu Amakhosi and Iziphakanyiswa Act, Act 9 of 1990.

The Black Authorities Act No. 68 of 1951.

The Zulu Chiefs and Headmen's Act, No. R.1657, G.G. 4393, September, 1974.

The KwaZulu Legislative Assembly Debates, Vol.45., 1987.

The KwaZulu Legislative Assembly Debates, Vol. 8., 1976.

The KwaZulu Legislative Assembly Debates, "E.S. Sithebe,"
Vol.21,. 1981.

The KwaZulu Legislative Assembly Debates, Vol.22., 1981.

The Provincial Gazette of KwaZulu-Natal, 15th November 1994,
KwaZulu-Natal Act on The House Of Traditional Leaders, No.7 of
1994.

The KwaZulu Legislative Assembly Debates, Vol. 5., 9 - 18 April,
1975.

The Provincial Gazette of KwaZulu-Natal, KwaZulu-Natal Act on The
House of Traditional Leaders, No.7 of 1994, Section 4 (1),
Assented to on 11/11/1994,

The Inkatha Freedom Party's Provincial Draft Constitution, 3
October 1995.

The KwaZulu Legislative Assembly Debates, Vol.7, 19 January,
1976.

The National States Constitutional Act No.21 of 1971.

Union Government Gazette, No. 4658, The Bantu Authorities Act.,
No. 68 of 1951, 17/7/1951.

Union Government Gazette, No. 6266, G.N. 1188, "The Establishment
of the Inkanyezi Regional Authority in Eshowe District," Under
Chief Ephraim Obedia Ndwandwe. 31/7/1959.

Union Government Gazette, No. 6241, The Promotion of Bantu Self-
Government Act, No 46 of 1959.

Union Government Gazette, No. 6253 The Native Affairs Act, No
55 of 1955.

Union Government Gazette, 14/1959, Report of the Department of Native Affairs for the Period 1 July 1954 to 31 December 1957.

ii) **INTERVIEWS**

Abdul Aweta, A member of the Inkatha Freedom Party, 14 December 1995, Pietermaritzburg.

Chief S. Zondi of Inadi Tribal Authority, 14 August 1994, Pietermaritzburg.

Chief V.A. Ngcobo of Mafunze Tribal Authority, 14 August 1994, Pietermaritzburg.

Chief N. Zondi of Mpumuza Tribal Authority, 14 August 1994, Pietermaritzburg.

Induna David Ntombela, Inkatha Freedom Party Provincial Member of Parliament, 14 December 1995, Pietermaritzburg.

Mike Stanleys, Director of the Department of Local Government in Pietermaritzburg, 12 December 1995, Pietermaritzburg.

R.G. Ncube, Magistrate of Vulindlela District based at Edendale, 14 August 1994, Edendale.

M. Tarr, Chief Whip of the Inkatha Freedom Party, 2 August 1994, 22 November 1995, Pietermaritzburg.

Themba Mkhize, A resident at Xamalala Tribal Authority, 14 August 1994, Edendale.

Vusi Tshabalala, A resident of Mafunze Tribal Authority, 14 December 1995, Pietermaritzburg.

2. SECONDARY SOURCES

a). BOOKS

Adam, H. and Moodley, K. 1993. The Negotiated Revolution: Society and Politics in Post-Apartheid South Africa, Johannesburg: Jonathan Ball Publishers.

Almond, G. 1987. "The Development of Political Development" in Myron Weiner and Samuel Huntington (eds), Understanding Political Development, Boston: Little Brown, pp.437-490.

Atkinson, D. 1994. "Brokering a Miracle? The Multi-Party Negotiation Forum," in S. Friedman and D. Atkinson (eds.), South African Review 7, The Small Miracle: South Africa's Negotiated Settlement, Johannesburg: Ravan Press, pp.13-43.

Atkinson, D. 1994. "Principle Born of Pragmatism? Central Government in Constitution," in S. Friedman and D. Atkinson (eds), South Africa Review 7: The Small Miracle: South's Negotiated Settlement, Johannesburg: Ravan Press, pp.92-120.

Beinart, W. 1995. "Chieftaincy and the Concept of Articulation: South Africa Circa 1900 - 1950," in W. Beinart and S. Dubow (eds), Segregation and Apartheid in Twentieth Century South Africa, London: Routledge, pp.176-188.

Brookes, E.H. 1974. White Rule in South Africa 1910 - 1930, Pietermaritzburg, University of Natal Press.

Brookes, E.H. and Webb, C.De B. 1965. History of Natal, Pietermaritzburg: University of Natal Press.

Brookes, E.H. 1924. The History of Native Policy in South Africa from 1830 to the Present Day, Cape Town: Nasionale Press.

Buthelezi, M.G. 1980. The Buthelezi Commission: The Requirements For Stability and Development in Kwazulu and Natal, Vol. 1 and 2, Durban: H and H Publications (Pty).

Cassidy, M. 1995. A Witness for Ever: The Dawning of Democracy in South Africa, Stories Behind the Story, London: Hodder and Stoughton.

Chandler, J.A. 1993. Local Government in Liberal Democracies: An Introductory Survey, London: Routledge.

Cloete, J.J.N. 1986. Introduction to Public Administration, Pretoria: J.L.Van Schaik.

Coetzee, W.A.J. 1987. Focus on Government and Administration in the Republic of South Africa, Durban: University of Durban-Westville.

Coetzee, W.A.J. 1983. Pertinent Issues of Local Government and Administration in Natal, Durban: University of Durban-Westville.

Cope, N. 1993. To Bind the Nation: Solomon kaDinuzulu and Zulu Nationalism 1913-1933, Pietermaritzburg: University of Natal Press. *North Society*

Cope, N.L. 1985. The Zulu Royal Family Under The South African Government, 1910-1933: Solomon KaDinuzulu, Inkatha and Zulu Nationalism, Durban: University of Natal Press.

Corcoran, P.E. 1983. "The limits of Democratic Theory" in G. Duncan (ed.), Democratic Theory and Practice, Cambridge: Cambridge University Press, pp.13-35.

✕Darke, R. and Walker, R. (eds.), 1977. Local Government and the Public, London: Leonard Hill.

Davidson, A. and Strand, P. 1993. The Path to Democracy: A Background to the Constitutional Negotiations in South Africa, Sweden: University of Uppsala.

De Villiers, R. M. 1949. "Politics" in E. Hellmann and L. Abrahams, (eds.), Race Relations in South Africa, London: Oxford University Press.

De Villiers, B. 1992. Regional Government in the New South Africa, Pretoria: HSRC Publishers.

Debroey, S. 1989. South Africa to the Source of Apartheid, Boston: University Press of America, Inc.

Derbyshire, D.J. 1984. An Introduction to Public Administration: People and Politics, 2nd Edition, London: McGraw-Hill Book Co. UK. Ltd.

Diamond, L. Linz, J.J. and Lipset, S.M. (eds.), 1989. Democracy in Developing Countries, Vol.4 Latin American Countries, London: Adamantine Press.

Donald Hancock, M. et al., 1993. Politics in Western Europe, London.

Duncan, G. (ed.) 1983. Democratic Theory and Practice, Cambridge: Cambridge University Press.

Evans, R.J, 1988. Blacks in Administrative Natal: Case Studies in Marginality, Vol.30, Natal.

Finley, M.I. 1973. Democracy Ancient and Modern, London: Chatto and Windus.

Friedman, S. 1993. (ed.), The Long Journey: South Africa's Question for a Negotiated Settlement, Johannesburg: Ravan Press.

Gdoyeya, A. 1983. "Local Government Reform in Nigeria," in P. Mawhood (ed.), Local Government in the Third World, Chichester: Wiley, pp.225-247.

Gildenhuis, J.S.H. 1987. A Comparative Study of Alternative Options For Local Government and Management in South Africa, Stellenbosch: University of Stellenbosch.

Giliomee, H. and Schlemmer, L. (eds), 1989. Negotiating South Africa's Future, Pretoria: Southern Books Publishers.

Gitonga, A. 1988. "The Meaning and Foundation of Democracy" in W.O. Oyungi (ed.), Democratic Theory and Practice in Africa, London: Heinemann, pp.4-23.

Gluckman, M. 1987. "The Kingdom of the Zulu of South Africa" in M. Fortes and E.E. Evans-Pritchard, African Political Systems, London: Oxford University Press, pp.25-55.

Gluckman, M. 1968. Analysis of Social Situation in Modern Zululand, Manchester: Manchester University Press.

Goldsmith, M. 1980. Politics, Planning and the City, London: Hutchinson.

Green, P. 1985. Retrieving Democracy: in Search of Civic Equality, London: Methven and Co, Ltd.

Greyling, A, and Kotze, H. (eds), 1991. Political Organizations in South Africa, Cape Town: Tafelberg Publishers Ltd.

Hadenius, A. 1992. Democracy and Development, Cambridge: Cambridge University Press.

Hammond-Tooke, W. 1975. Command or Consensus, Cape Town: John Phillip.

Hanekom, S.X. 1988. "Why Local Government Matters", in C. Heymans and G. Totemeyer (eds), Government by the People: the Politics of Local government In South Africa, Cape Town, Juta and Co, Ltd, pp.13-21.

Harris, P.B. 1970. Studies In African Politics, London: Hutchinson University Library.

Hill, D.M. 1974. Democratic Theory and Local Government, London: George Allen and Unwin.

Hodder - Williams, R. 1984. An Introduction to the Politics of Tropical Africa, London, George Allen and Unwin.

Horrell, M. 1973. The African Homelands of South Africa, Johannesburg: South African Institute of Race Relations.

Humes, S. and Martin, E. 1969. The Structure of Local Government: A Comparative Survey of 81 Countries, Interactional Union of Local Authorities, The Hague.

Humphries, R. Rapoo, T. and Friedman, S. 1994. "The Shape of the Country Negotiating Regional Government," in S Friedman and D. Atkinson, (eds.), South African Review 7, The Small Miracle: South Africa's Negotiated Settlement, Johannesburg: Ravan Press, pp.148-181.

Huntington, S.P. 1976. "The Change to Change: Modernization, Development and Politics," in C.E. Black (ed.), Comparative Modernization, London: The Free Press, pp.25-61.

Huntington, S.P. 1993. The Third Wave: Democratization in the Late Twentieth Century, London, University of Oklahoma Press.

Hyden, G. and Bratton, M. (eds), 1992. Governance and Politics in Africa, London: Lynne Rienner Publishers.

Irvine, D. 1993. "Federalism and the New Constitution," in A. Johnston, S. Shezi and G. Bradshaw (eds.), Constitutional-making in the New South Africa, London: Leicester University Press, pp.13-27.

Jackson, P.W. 1976. Local Government, London: Butterworths.

Jeppe, W.J.O. and Kotze D.A. 1974. "Local Government in the African Areas of South Africa," in W.B. Vosloo, D.A. Kotze and W.J.O. Jeppe (eds), Local Government in Southern Africa, Cape Town: H and R Academica (Pty) Ltd, pp.54-98.

Johnston, A. 1993. "Introduction: South Africa Since February 1990," in A. Johnston, S. Shezi, and G. Bradshaw, (eds), Constitution-Making in the New South Africa, London: Leicester University Press, pp.1-9.

Keith-Lucas, B. and Richards, P.G. (eds.), 1978. A History of Local Government in the 20th Century, London: Allen and Unwin.

Kotze, D.A., 1975. African Politics in South Africa, 1964 - 1974: Parties and Issues, Pretoria: J.L. Van Schaik Limited.

Lacey, M. 1981. Working for Boroko. The Origins of Coercive Labour System in South Africa, Johannesburg: Raven Press.

Laski, H. J. 1938. Parliamentary Government in England: A Commentary, New York: The Viking Press.

Lawrence, R. 1994, "From Codesa to Soweto," in S. Friedman and D. Atkinson (eds.), South African Review 7, The Small Miracle: South Africa's Negotiated Settlement, Johannesburg: Ravan Press, pp.1-12.

Lijphart, A. 1977. Democracy in Plural Societies: A Comparative Exploration, London: Yale University Press.

- Lively, J. 1975. Democracy, Oxford: Basil Blackwell.
- Lombard, J.A. et al. 1980. Alternative to the Constitution of KwaZulu: Progress Report, University of Pretoria: Bureau for Economic Policy and Analysis.
- Louw, L. and Kendal, F. (eds.), 1986. South Africa: The Solution, Bisho, Ciskei: Amazi Publications.
- Lowe, C. 1991. "Buthelezi, Inkatha and the Problem of Ethnic Nationalism in South Africa," in J. Brown and P. Manning (eds), History from South Africa; Alternative Visions and Practices, Philadelphia: Temple University Press, pp.194-208.
- Maré, G. and Hamilton, G. 1987. An Appetite for Power: Buthelezi's Inkatha and the Politics of Loyal Resistance, Johannesburg: Raven Press.
- Maré, G. 1993. Ethnicity and Politics in South Africa, London: Zed Books.
- Marks, S. 1995. "The Zulu Royal Family and The Ideology of Segregation," in W. Beinart and S. Dubow (eds), Segregation and Apartheid in Twentieth-Century South Africa, London: Routledge, pp.91-117.
- Mawhood, P. 1984. Federal Government in Developing Countries, Birmingham: Development Administration Group.
- Mawhood, P. 1983. Local Government in the Third World, Chichester: Wiley.
- Mbeki, G. 1963. The Peasant Revolt, London: Penguin Books.
- Nurse-Bray, P. 1983. "Consensus and Community: The Theory of African One-Party Democracy," in G. Duncan (ed.), Democratic

Theory and Practice, Cambridge: Cambridge University Press, pp.97-111.

Ottaway, M. 1993. South Africa: The Struggle for a New Order, Washington, D.C: The Brookings Institution.

Passmore, G.C. 1971. Theoretical Aspects of Local Government and Community Development in the African Rural Areas of Rhodesia, Salisbury: University of Rhodesia.

Pickles, D. 1971. Democracy, London: Methuen and Co. Ltd.

Pinkney, R. 1993. Democracy in the Third World, London: Open University Press.

Portes, A. and Walton, J. (eds) 1982. Labour, Class and the International System, New York: Aberdeen.

Richards, P.G. 1983. The Local Government System, London: George Allen and Unwin.

Richards, P.G. 1980. The Reformed Local Government System, London: George Allen and Unwin.

Roberts, K and Graham, H. 1987. New Frontiers: The Kwazulu/Natal Debates, University Of Natal.

Schlemmer, L. 1980. "Squatter Communities: Safety Valves in the Rural-Urban Nexus" in Giliomee, H. and Schlemmer, L. (eds), Up Against the Fences: Poverty, Passes and Privileges in South Africa, Cape Town, David Philip, p.111.

Seeley, I.H., 1978. Local Government Explained, Hong Kong: Macmillan Press Ltd.

Simons, H.J. 1968. Class and Colour in South Africa 1850 - 1950, Baltimore: Penguin.

- Sisk, T.D. 1995. Democratization in South Africa: The Elusive Social Contract, Princeton: Princeton University Press.
- Sitas, A., 1990. "Class, Nation, Ethnicity in Natal's Black Working Class", in The Societies of Southern Africa in the 19th and 20th Centuries, Volume 15, University of London, pp.257-276.
- Sklar, R.L. and Whitaker, C.S. (eds.), 1991. African Politics and Problems in Development, London: Lynne Rienner Publishers.
- Slabbert, F.Z. and Welsh, D. 1979. South Africa's Options: Strategies for Sharing Power, Cape Town: David Philip.
- Smith, I., 1978. Towards a Plan for Kwazulu: A Preliminary Development Plan, Volume 1, Pietermaritzburg: Kendall and Strachan (Pty) Ltd.
- So, Y.A., 1990. Social Change and Development: Modernization, Dependency, and World-System Theories, New Delhi: Sage Publications.
- * Stanyer, J., 1976. Understanding Local Government, Glasgow: William Collins Sons and Co. Ltd.
- Stedman, M.S. Jr. 1979. State and Local Governments, Cambridge: Winthrop Publishers.
- Stewart, J., 1983. Local Government: The Conditions of Local Choice, London: George Allen and Unwin (Publishers) Ltd.
- + Sutcliffe, M. 1986. The Kwazulu/Natal Indaba: An Analysis of the Attitudes of Residents Living in Kwazulu/Natal, Durban: University of Natal. *Sp #1*
- Temkin, B., 1976. Gatsha Buthelezi: Zulu Statesman: A Biography, Cape Town: Purnell.

Tessendorf, H.R. and Boulton, B.E, 1991. Inkatha Yenkululeko Yesizwe: An Analysis, Summerstrand: University of Port Elizabeth.

Tipps, C. D., 1976. "Modernization Theory and the Comparative Study of Societies: A Critical Perspective," in C.E. Black (ed.), Comparative Modernization, London: The Free Press, pp.62-88.

Todd, A. Parliamentary Government in England: Its Origin, Development, and Practical Operation, London: Sampson Low, Marston & Company Ltd.

Totemeyer, G., 1988. "Local Government: Where Politics and Public Administration Meet," in C. Heymans and G. Totemeyer (eds), Government by the People: The Politics of Local Government in South Africa, Cape Town: Juta and Co, Ltd, pp.1-11.

Vanhanan, T., 1990. A Process of Democratization: A Comparative Study of 147 States 1980 - 1988, London: Crane Russak.

Vosloo, W.B. 1974. "South Africa: Local Government in White Areas", in W.B. Vosloo, D.A. Kotze, and W.B.O. Jeppe, (eds), Local Government in Southern Africa, Pretoria: Academica Press, pp.13-53.

†Welsh, D., 1971. The Roots of Segregation: Native Policy in Colonial Natal, 1845 - 1910, London: Oxford University Press.

Wilson, H. 1976. The Governance of Britain, London: Butler and Tanner Ltd.

Wittenberg, M. and McIntosh, A. 1992. Decentralization in South Africa: Regional Power or Local Development?, Pietermaritzburg: Institute of Natural Resources, University of Natal.

Zulu, P.M. 1985. "The Rural Crisis: Authority structures and Their Role in Development," in H. Giliomee and L. Schlemmer

(eds), Up Against The Fences: Poverty, Passes and Privilege in South Africa, Cape Town: David Phillip, pp.243-249.

b). **ARTICLES IN JOURNALS AND PERIODICALS**

Beall, J. Friedman, M. Hassim, S. Posel, R. Stiebel, L. and Todes, A. 1987. "African Women in Durban Struggle 1985-1986: Towards a Transformation of Roles?" in Moss, G. and Obery, I. (eds). South African Review. Vol.4. Johannesburg: Ravan Press, pp.93-103.

Bekker, J.C. 1993. "The Role of Chiefs in a Future South African Constitutional Dispensation", in Africa Insight, Vol. 23, No. 4, pp.200-204.

Bennet, T. W. 1994. A Source Book of African Customary Law for Southern Africa, Juta, pp.410-411.

Du Pisan, J.A. Alternatives to the Consolidation of Kwazulu, Progress Report, Special Focus No.2, Pretoria.

Lawrence, R. 1993. "Why I am not a Federalist," in Development and Democracy, Johannesburg, 5th July, pp.9-12.

Maré, G. 1987. "Last Chance, Limited Options or No Go?" New Frontiers: The Kwazulu/Natal Debates, Indicator SA, October, pp 18-21.

Maré, G. 1988a. "Inkatha: By the Grace of the Nationalist Government?" South Africa Labour Bulletin, Vol.13 , No.2, pp.63-73.

Mayende, P. 1993. 'Panel Discussion on Regionalism,' in Development and Democracy, Johannesburg, 5th July, pp.14-31.

Mdluli, p. (Nzimande, B.) 1987. "Ubuntu-botho: Inkatha's People's Education," in Transformation 5, pp.60-77.

Ngubane, B. 1993. "Panel Discussion on Regionalism," in Development and Democracy, Johannesburg, 5th July, pp.14-31.

Sitas, A. 1986. "Inanda, August 1985-'Where wealth and Power and Blood Reign Worshipped Gods.'" South African Labour Bulletin. Vol. 11. pp.85-121.

Skweyiya, Z. 1993. "Panel Discussion on Regionalism," in Development and Democracy, Johannesburg, 5th July, pp.14-31.

Streek, B. 1984. "Disunity Through the Bantustans' in South African Research Service (ed.), South African Review. Vol.2. Johannesburg: Ravan Press, pp.259-270.

c). **REPORTS AND WORKING PAPERS**

Association For Rural Advancement News (AFRA) June/July 1994.

Botha, T, Tandy, P and Ismail, N, 1992. Report on Intergovernmental Relations in Zimbabwe, Botswana and Namibia, University of Western Cape.

Botha, T. and Tandy, P. 1992. LOGOPOP Newsletter 3.

Forsyth, P. 1989. "The Natal-KwaZulu Joint Executive Authority" Discussion Paper presented to the Regional Studies Forum, Pietermaritzburg, July, 1989.

Forsyth, P. (1990b). "Aspects of Rural Government and Ethnicity in Natal and KwaZulu" Discussion Paper presented to the Regional Studies Forum, Pietermaritzburg, May 1990.

Francis, M., Irvine, D. and Seethal, C. 1994. Investigation into Metropolitan Forms of Local Government For the Greater Pietermaritzburg Area, Resource Document, 15th July, 1994.

Glaser, D. "The Indaba and its Proposal: A Critical Response," In Workshop on Regionalism and Reconstructing in Natal, University of Natal, Durban, January 1988, pp.1-13.

Grest, J. Hughes, H. Mare, G. and Metelerkamp, 1988. "The Politics of Regionalism: The Natal Option," in Workshop on Regionalism and Restructuring in Natal, Durban: University of Natal, pp.1-43.

Hayes, G. Inkatha: An Analysis, 1979. A paper given at the Southern African Studies Seminar, Pietermaritzburg, Thursday, 10 May.

Humphries, R and Shubane, K. 1992. "A Delicate Balance: Reconstructing Regionalism in South Africa," Research Report No.24., Centre for Policy Studies, Johannesburg.

Maré, G. 1988. "Tradition and Control: The Presence of the Past in Natal," in Workshop on Regionalism and Restructuring in Natal, Durban: University of Natal, pp.1-18.

Mqoke, B.R. "Traditional Leaders and National Security," An Input Paper, Constitutional Assembly, Theme Committee 2 Structure of Government In-House Workshop Traditional Leaders, (held in Pretoria on 3 April 1995)

Mqoke, B.R. "Institution of Traditional Leadership: Executive and Legislative Function," An Input Paper, Constitutional Assembly, Theme Committee 2 Structure of Government In-House Workshop Traditional Leaders, (held in Pretoria on 3 April 1995)

Schlemmer, L. 1987. Indaba News, No.9.

The African National Congress, 1992a. Ten Proposed Regions for a United South Africa, Cape Town: Centre for Development Studies, University of the Western Cape.

Zulu, P. 1988. "A Crisis in the "Politics" of Opposition: A Look into Natal 1981-1987" in Workshop on Regionalism and Restructuring in Natal, University of Natal, Durban, January 1988, pp.1-21.

d). **CONFERENCE PAPERS, THESES AND COMMISSIONED PAPERS**

Aborisade, O. "Traditional Leaders in Support of Democracy," Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

Bell, M.M.S. 1980. The Politics of Administration: A Study of the Career of Dr.Smith with Special Reference to His Work in the Department of Native Affairs, 1934 - 1945, Masters Thesis: Rhodes University.

Botha, T. "The Role of Traditional Leaders in Local Government," Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October 1994.

Forsyth, P.D.S. 1989. The Past as the Present: Chief M.G. Buthelezi's use of History as a Source of Political Legitimation, An M.A. Thesis presented in the Department of History at the University of Natal, Pietermaritzburg,

Heymans, C. "South Africa's Local Government Transition: Current State of the Local Government Debate," Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October, 1994.

Inkosi Holomisa, P. "The Role of Traditional Leaders in Local Government," Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October, 1994.

Inkosi Ngubane, N. "The Role of Traditional Leaders in Local Government," Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October, 1994.

Inkosi Hlengwa, W. "The Role of Traditional Leaders in Local Government" Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October, 1994.

Keulder, C.J. "Traditional Leaders In Namibia with Some References to Botswana and Zimbabwe," Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

Lodge, T. "Commission on Provincial Government," Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

McIntosh, A. "The Rural Local Government Debate in South Africa: Centrist Control or Local Development?," Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October 1994.

McIntosh, A.C. 1992. Options for Rural Local Government and Administration in South Africa with Particular Reference to Kwazulu, A Ph.D. Thesis Presented in the Department of Political Studies at the University of Birmingham.

Mitti, K. "The Elimination Of Traditional Leaders From the National Political Scene", Workshop on Traditional Leaders and the New South Africa Constitution, Pretoria: 20-21 April 1995.

Mokgoro, Y. "Traditional Authority and Democracy in the Interim South African Constitution", Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-28 October, 1994.

Prince Makuwa, Z. "The Role of Traditional Leaders in Local Government" Seminar Report, Konrad-Adenauer-Stiftung, Durban, 27-27 October, 1994.

Seethal, C.E.P., 1993. Civic Organizations and the Local State in South Africa (1979 - 1993), A Ph.D Thesis Presented in the Department of Geography at the University of Iowa.

Venson, P. "Politics and the Chieftaincy: The Botswana Experience," Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

Vilakazi, H.W. and Zungu, S. "On Traditional Leaders and New Constitution," Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

Vorster, L.P. and Whelpton, F.P.R. "Experience From the Kingdom of Swaziland", Workshop on Traditional Leaders and the New South African Constitution, Pretoria: 20-21 April 1995.

Wamala, A.S "Traditional Rule in Uganda: Problems and Prospects" Workshop on Traditional Leaders in the New South African Constitution, Pretoria: 20-21 April 1995.

e). **NEWSPAPER ARTICLES.**

The Daily News, 19/01/1994.

The Daily News, 1/6/1994.

Illanga, 31/12/1975.

The Mail and Guardian, July 9 to 15, 1993, p. 19.

The Mail and Guardian, July 16 to 25, 1993, p. 16.

The Mail and Guardian, June 17 to 23, 1994, p.4.

The Mail and Guardian, July 21 to 27 1995, p.31.

The Natal Echo, 17/02/1994.

The Natal Witness, 27/10/1973.

The Natal Witness, 3/05/1986.

The Natal Witness, 14/02/1992.

The Natal Witness, 27/03/1993.

The Natal Witness, 12/07/1993.

The Natal Witness, 10/11/1993.

The Natal Witness, 15/02/1994.

The Natal Witness, 18/02/1994.

The Natal Witness, 25/02/1994.

The Natal Witness, 13/04/1994.

The Natal Witness, 14/04/1994.

The Natal Witness, 22/04/1994.
The Natal Witness, 23/05/1994.
The Natal Witness, 14/06/1994.
The Natal Witness, 16/06/1994.
The Natal Witness, 20/06/1994.
The Natal Witness, 28/06/1995.
The Natal Mercury, 17/11/1973.
The Natal Mercury, 29/06/1995.
The New Nation, 30/09/1994.
The Sunday Nation "What Mandela Offered the Zulu King" p. 3.
10/04/1994.
The Sunday Nation, 21/05/1994.

12
-1194
13

212
-1194
21