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To cite this article: Jo Beall , Sibongiseni Mkhize & Shahid Vawda (2005) Emergent Democracy and 'Resurgent' Tradition: Institutions, Chieftaincy and Transition in KwaZulu-Natal\* , Journal of Southern African Studies, 31:4, 755-771, DOI: [10.1080/03057070500370530](https://doi.org/10.1080/03057070500370530)

To link to this article: <https://doi.org/10.1080/03057070500370530>



Published online: 06 Aug 2006.



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# *Emergent Democracy and 'Resurgent' Tradition: Institutions, Chieftaincy and Transition in KwaZulu-Natal\**

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*This article explores chieftaincy in democratic South Africa and particularly in KwaZulu-Natal, where traditional leadership is vocal and politically embedded. Informed by institutional theories, we argue that tradition is more persistent than 'resurgent' and that the relationship between ubukhosi (chieftaincy) and wider governance structures in the province and South Africa must be seen as part of a much longer history that exhibits both continuities and discontinuities. Indeed, the article draws parallels between 'indirect rule' under colonialism and beyond, and current plans for involving traditional leaders in local governance but concludes that the analogy has limitations given the broader institutional context of post-apartheid South Africa. Drawing on historical analysis of KwaZulu-Natal and contemporary research among traditional leaders, municipal officials and councillors, as well as residents of traditional authority areas, we consider whether the current recognition of traditional authorities and the powers and functions accorded them, constitute a threat to South Africa's emergent democracy or serve as a site of stability in a politically volatile province.*

## Introduction

Late twentieth-century efforts to promote democracy in Africa were rewarded in one part of the continent at least. Flying in the face of the voice of Afro-pessimism, the first non-racial elections in South Africa, in April 1994, heralded the end of apartheid and gave birth to a liberal democracy. They have been succeeded by two further democratic elections that have

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\* The authors are grateful for funding to the Crisis States Research Centre at the Development Studies Institute, London School of Economics. We would like to thank Shula Marks for her incisive comments on an earlier version of this paper. Additionally, Jo Beall would like to thank Jocelyn Alexander for a number of useful discussions and to acknowledge her debt to the School of Development Studies at the University of KwaZulu-Natal for the visiting research fellowship that facilitated the research from which this article is drawn.

1 At the time the research was undertaken, Sibongiseni Mkhize was the Director of the Voortrekker Museum (now the Msunduzi Museum) in KwaZulu-Natal.

been inclusive, relatively free, fair and peaceful. This historic period of change has been accompanied in South Africa by what Oomen has described as a 'surprise re-entry' and 'resurgence' of traditional leadership,<sup>2</sup> a view that chimes with wider observation of 're-traditionalisation' across Africa.<sup>3</sup> In this context, it could be argued that South Africa has become caught up in a wider drift towards revitalised tradition and the increased salience of customary practices, despite its fairly recent democratic transition. This should not be particularly surprising, however, given that South Africa is as rich in tenacious institutions with indigenous roots as other African countries and, indeed, these were entrenched (albeit in distorted ways) over many decades of segregationist and apartheid rule. Moreover, if viewed in historical perspective, traditional authorities in southern Africa have always engaged assertively with other sites of authority and forms of government.<sup>4</sup> It is somewhat more surprising that South Africa's new democracy, led by an African National Congress (ANC) government, would adopt such a conciliatory approach towards chieftaincy in South Africa, even at the expense of hard won liberal democratic principles. Adherents of tradition argue that although now tainted by its association with segregation and apartheid, traditional leaders have nevertheless provided continuity of governance, particularly in rural areas where there were scant alternative structures. Opponents see the political embracing of tradition as a regressive step that undermines progress towards democratic consolidation in South Africa. In many respects these concerns and perspectives are not new and reflect a long-standing historiography in South Africa focused on chieftaincy and governance that is particularly relevant in informing and understanding the contemporary period.<sup>5</sup>

Against this background we explore the institution of chieftaincy<sup>6</sup> in South Africa and particularly in KwaZulu-Natal, where 'resurgent' tradition is particularly vocal and politically embedded. However, even here it is argued that the relationship between *ubukhosi* (chieftaincy) and wider governance structures must be seen as part of a longer history, exhibiting both continuities and discontinuities.<sup>7</sup> With this in mind we consider whether the current recognition of traditional authorities and the powers and functions accorded them constitute a threat to South Africa's emergent democracy or serve as a site of stability in a politically volatile province that could potentially destabilise South Africa's fragile democracy. The question is framed by recourse to institutional theories and is answered by setting the contemporary experience of 'negotiating tradition' in

2 B. Oomen, *Chiefs in South Africa: Law, Power and Culture in the Post-Apartheid Era* (Oxford, James Currey and Pietermaritzburg, University of KwaZulu-Natal Press, 2005), p. 11.

3 S. Berry, *Chiefs Know their Boundaries: Essays on Property, Power and the Past in Asante 1896–1996* (Portsmouth NH, Heinemann, 2001); P. Chabal and J.P. Daloz, *Africa Works: Disorder as Political Instrument* (Oxford, James Currey, 1999); M. Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (London, James Currey, 1996).

4 E. Hobsbawm and T. Ranger (eds), *The Invention of Tradition* (Cambridge, Cambridge University Press, 1983); L. Vail, (ed.), *The Creation of Tribalism in Southern Africa* (Berkeley, University of California Press, 1989).

5 W. Beinart (1994), *Twentieth-Century South Africa* (Oxford, Oxford University Press, 1994); W. Beinart and C. Bundy, *Hidden Struggles in Rural South Africa* (Johannesburg, Ravan Press, 1987).

6 It is recognised that the terminology around traditional leaders is contentious and that the use of terms such as traditional authorities and chiefs have been questioned and debated in South Africa. In KZN the vernacular Zulu terms *inkosi* (chief) and *amakhosi* (chiefs) are used. The Zulu term for the institution of chieftainship is *ubukhosi*. When the discussion is not focused exclusively on KwaZulu-Natal the terms 'traditional leaders' and 'chiefs' are used interchangeably, here stripped of pejorative connotations.

7 N. Cope, *To Bind the Nation: Solomon kaDinuzulu and Zulu Nationalism 1913–1933* (Pietermaritzburg, University of Natal Press, 1993); S. Marks, *Reluctant Rebellion: The 1906–1908 Disturbances in Natal* (London, Clarendon Press, 1970); S. Marks, *The Ambiguities of Dependence in South Africa* (Johannesburg, Ravan Press, 1986); S. Marks, 'Patriotism, Patriarchy and Purity: Natal and the Politics of Zulu Ethnic Consciousness', in L. Vail (ed.), *The Creation of Tribalism in Southern Africa* (Berkeley, University of California Press, 1989), pp. 215–40.

KwaZulu-Natal against a background of segregation, apartheid, resistance and political violence in the province.

## **Background on KwaZulu-Natal**

Forged out of the former province of Natal and the so-called 'independent homeland' of KwaZulu, the province of KwaZulu-Natal (KZN) has had a difficult history, including being born of political conflict, during the twilight years of apartheid, that assumed the proportions of a civil war. The price paid in the province for the transition to a non-racial national democracy was the loss of 20,000 lives since 1984.<sup>8</sup> At its height, the violence led to the displacement of half a million people<sup>9</sup> with more people dying in KZN in a decade than in twenty years of fighting in Northern Ireland. Today KZN remains tense but is no longer the epicentre of violent conflict and civic breakdown in South Africa. This shift has been assisted by what Taylor calls 'a politics of denial' about 'a war that no one wants to admit or recognise'.<sup>10</sup> Calm was also facilitated by a number of political compromises by national government that held particular resonance at provincial and local level in KZN. One was that the ANC accorded a cabinet post in the first government of national unity to Chief Mangosuthu Gatsha Buthelezi, the former Chief Minister of the KwaZulu Legislative Assembly and leader of the rival Inkatha Freedom Party (IFP). This position was maintained following the 1999 election when Buthelezi became Minister of Home Affairs.<sup>11</sup> Another compromise was the decision to accommodate South Africa's traditional leaders in the governance of the country.

The politics of compromise were entered into not least with the volatile politics of KZN in mind. During the negotiation phase, Buthelezi supported the demands of the former ruling Nationalist Party for a federalist system of government and although they lost on this score, he tried to ensure greater power for the province of KZN through preserving the powers of traditional authorities, a critical element of his IFP support base. In the first non-racial democratic elections in a government of national unity in 1994, the IFP won a narrow majority in the new provincial legislature and KZN became one of only two provinces to fall outside the control of the ANC.<sup>12</sup> In the 1999 elections, neither party won a clear majority and a coalition provincial government was formed on the back of a shaky truce. Floor crossing in the Provincial Legislature subsequently rocked the political calm.<sup>13</sup> This allowed the ANC and its allies in the

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8 R. Taylor, 'Justice Denied: Political Violence in KwaZulu-Natal After 1994', *African Affairs*, 101 (2002), pp. 473–508.

9 A conservative estimate, calculated from the number of houses known to have been destroyed between 1987 and 1989, is that at least 10,500 people must have been displaced from their homes during this period alone (A. Jeffrey, *The Natal Story: Sixteen Years of Conflict* (Johannesburg, South African Institute of Race Relations, 1997). A more recent estimate is that between 200,000 and 500,000 refugees fled political conflict in KZN in the period from 1984 to 1994. See E. Mariño, 'The 1994 Emergency in KwaZulu-Natal, South Africa: Statements and Observations from the International Observer to the Emergency', Durban–Johannesburg, April–July, 1994.

10 Taylor, 'Justice Denied', p. 504.

11 Buthelezi was at first given the role of Deputy President, later ceded to Jacob Zuma, one of the few high-ranking Zulu members of the ANC. At the time of writing it was not clear where Buthelezi would be accommodated following the 2004 election.

12 The other was Western Cape Province. In 1994 nine provinces were created out of the four provinces of so-called 'white South Africa' and the ten former ethnically defined 'homelands' or 'bantustans' created under the Bantu Authorities Act of 1951 and the Promotion of Bantu Self-Government Act in 1959.

13 This was provoked by changes in national legislation allowing incumbent elected politicians to switch party allegiances mid-term. The legislation was designed by the ANC-led national government to address, in its favour, problems being encountered at local government level in the Western Cape but the situation in KZN could not be excluded from this legislation although the implications are more ambiguous.

province to secure a two-seat majority so that for the first time the political dominance of the IFP in KZN was dislodged, unleashing a backlash from the Party involving accusations of bribery and corruption against those who had defected to the ANC.<sup>14</sup> In the 2004 elections, the ANC won a narrow majority (46.98 per cent) over the IFP (36.82 per cent) but neither party appears able to make up an alliance bloc.<sup>15</sup> Despite the elections having been declared free and fair, the IFP challenged the results and the prospect of an inclusive and co-operative coalition government in the province cannot be guaranteed.

Critical to the delicate power balance between the ANC and the IFP in the KwaZulu-Natal Provincial Legislature in the first decade of democracy was the fact that each party received its votes from predominantly urban and rural constituencies respectively. The IFP has its major power base in the rural areas, and commands strong support from the *amakhosi* (chiefs) and their *izinduna* (headmen). It has nurtured an urban following through alliances with white middle-class elites in the cities, notably through political accommodation with the Democratic Alliance (DA) in the context of local government politics, as well as through courting Zulu migrant workers living in urban hostels, mobilised through local IFP branches. The ANC has been stronger in urban areas and has only gradually made inroads into rural political constituencies, its progress having been consistently blocked by the *amakhosi*. It is for this reason, therefore, that *ubukhosi*, the institution of chieftainship in KZN, has become a political faultline along which democratic governance and peaceful transition is constantly tested in the province.

## Institutions and Social Change

At a function in Greytown in April 2003, attended by the IFP leader Mangosuthu Buthelezi who was receiving the freedom of the town, Prince Gideon Zulu, the IFP MEC for Social Development, lashed out at IFP defectors to the ANC in the recent floor-crossing episode, by saying they were behaving 'as if they were bigger than their mothers' bums'.<sup>16</sup> His remarks were broadcast on a local radio station, *Ukhozi FM*. They subsequently entered Hansard when he was asked by Peggy Nkonyeni, an ANC MEC in the Provincial Legislature, to retract his remarks. He refused, saying 'I am not going to take nonsense from you, woman, your mother's bum'. Eventually, however, and at the insistence of the Speaker of the House Bonga Mdlletshe, he offered a grudging apology. Peggy Nkonyeni said 'As a woman, I feel belittled and humiliated and believe that [Prince Gideon] Zulu is a sexist who, like the racists of yesteryear, has no public role in our non-racial and non-sexist society.' Prince Gideon Zulu countered that his remarks were not insulting because buttocks were a subject of praise in Zulu culture, where men often 'politely asked women to show off their bums'. This retort notwithstanding, Nkonyeni has lodged a complaint with the Human Rights Commission and the

14 At the time, it led to the firing of three ANC Members from the Executive Committee (MECs) by the IFP Provincial Premier, Lionel Mtshali (*Sunday Times*, 13 April 2003). While on the surface such goings on might seem nothing more than political shenanigans, they were invariably watched with some anxiety in KZN, where fears of renewed political violence lay just below the surface. Such latent fear helps explain why politically neutral commentators prefer a coalition government to narrow majorities (*Mail and Guardian*, 11–16 April 2003).

15 <http://iafrica.com/news/saelectionfocus/news/316632.htm> (last accessed 20 December 2005).

16 *Sunday Times*, 13 April 2003. In the Zulu language this represents a graver insult than might be conveyed in English.

Commission on Gender Equality, both established after the 1994 elections to give force to constitutional commitments on human rights and non-sexism respectively. This incident is recounted because it encapsulates something of how competing values and norms infuse institutions and indicates how fraught and complex a process this can be in a context of rapid social and political change. One reading of the exchange would simply be to see Prince Gideon Zulu as championing the cause of 'traditional Zulu culture' and Peggy Nkonyeni as sounding the voice of modernist reason. Another approach, and the one adopted here, is to be wary of such bifurcated analysis in favour of seeking to understand how processes of transformation occur within circumstances of institutional multiplicity.

Institutions are understood here as the humanly devised rules that constrain or enable individual and collective behaviour. They comprise formal rules, informal constraints and the enforcement characteristics of both.<sup>17</sup> New institutional economists consider institutions to be efficient because they enhance information flows and reduce uncertainty, and durable because of their inherent inertia, given the high transactions costs of change.<sup>18</sup> Alongside other social scientists they accept that institutions affect all aspects of social existence from political decision-making to the rules governing personal relationships, and that they form the framework in which these social interactions take place.<sup>19</sup> Like culture, institutions are not static but they are inherently inert. Configured by past processes and circumstances they are never in full accord with the requirements of the present.<sup>20</sup> The anthropologist, Mary Douglas sees institutions becoming socially embedded slowly, by way of iterative cognitive processes.<sup>21</sup> Giddens also takes a long view, describing the rooting of institutions in terms of social systems understood as the 'reproduced relations between actors or collectivities, organised as regular social practices'.<sup>22</sup> What this might suggest with regard to the acrimonious exchange between Prince Gideon Zulu and Peggy Nkonyeni in the KwaZulu Legislative Assembly is that if they engaged for long enough, eventually one frame of meaning might give way to the other. However, taking the long view does not necessarily imply passivity. Robert Bates suggests that political interventions and settlements can play an important role in the creation of new or the evolution of old institutions.<sup>23</sup> This article considers both the tenacity and mutability of the institution of *ubukhosi*, from the colonial period, through the apartheid era and into the post-apartheid dispensation in South Africa. It explores how this has been engaged with as a political process within KZN past and present, in order to explain how today, democratically elected members of the national and provincial parliaments and ward councillors, operate in a context of institutional multiplicity alongside chiefs and headmen and to analyse the implications for democratic consolidation.

17 D.C. North, 'The New Institutional Economics and Third World Development', in J. Harriss, J. Hunter and C.M. Lewis (eds), *The New Institutional Economics and Third World Development* (London, Routledge, 1995), pp. 17–26.

18 D.C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge, Cambridge University Press, 1990).

19 J. Knight, *Institutions and Social Conflict* (Cambridge, Cambridge University Press, 1992).

20 T. Veblen, *The Theory of the Leisure Class, An Economic Study of Institutions* (New York, Macmillan, 1902).

21 M. Douglas, *How Institutions Think* (London, Routledge and Kegan, 1986).

22 A. Giddens, *The Constitution of Society* (Cambridge, Polity Press, 1984), p. 25.

23 R.H. Bates, 'Social Dilemmas and Rational Individuals: An Assessment of the New Institutionalism', in J. Harriss, J. Hunter and C.M. Lewis (eds), *The New Institutional Economics and Third World Development* (London, Routledge, 1995), pp. 27–48.



## Chieftaincy as an Evolving Institution

One of the key problems facing South Africa is that chieftaincy in Africa operates on principles that are antithetical to democratic ideals. Selection for the office of chief is not by popular vote but is usually hereditary and for life. It is a hierarchical and patriarchal system that has largely excluded women<sup>24</sup> from office and it supports customary laws that are exclusionary and oppressive towards women, particularly in relation to property rights. In such a system, there are obvious limits to representation and downward accountability. In Africa more generally, traditional authorities have become dependent on elected or military governments for resources or recognition, leading to awkward lines of upward accountability. In South Africa, similar axes operated in relation to the apartheid regime. Nevertheless, political pragmatism has demanded that a variety of governments have sought coexistence with chieftaincy in Africa, so that over the years the institution of chieftainship has endured. In many countries the power and influence of traditional authorities is such that politicians seeking elected office compete with them at their peril. However, to say traditional authorities are hardy perennials is only half the picture. Although resilient, the institution of chieftaincy across the continent bears the battle scars of having to adapt to survive.

During the colonial period in South Africa, the British experimented with two contrasting systems for ruling the indigenous African population. The first was to try and weaken the institution of chieftainship and govern through the colonial bureaucracy. In South Africa this system was attempted, for example, in the Eastern Cape. The second system was to rely on local indigenous rulers to administer and control the local population in a system of 'indirect rule'. This was the system adopted in Colonial Natal by the Secretary for Native Affairs, Sir Theophilus Shepstone (1845–76) and became known as the 'Shepstone System'.<sup>25</sup> His approach to native administration saw both appointed and hereditary chiefs become agents of the colonial government and totally dependent on it for resources. As such, engagement with colonialism changed the nature of *ubukhosi* in the territory of present day KZN.

It has been argued that in pre-colonial South Africa chiefdoms were 'first among equals'.<sup>26</sup> Communities were fluid and the *amakhosi* had ill-defined authority over the *imizi* (homesteads) in their jurisdiction. Bound together by ties of kinship, marriage or clientalism, they derived their authority from the allegiance of subjects and functioned through the distribution and redistribution of accumulated tribute, usually in the form of cattle.<sup>27</sup> In other words, the authority of the *amakhosi* is thought to have derived not from coercive power but from patronage, ritual and symbolic power, something akin to Bourdieu's 'cultural capital',<sup>28</sup> itself the outcome of negotiated processes at the local level. Butler explains:

Certainly the chief would have been looked to as the guarantor of tribal harmony (by playing a key role in conflict resolution); of economic viability of homesteads (by playing a key role in managing the allocation of land rights and land-use rights to households); and social and cultural coherence and continuity (by playing a key role in social and ritual aspects of tribal life).<sup>29</sup>

24 There are a few women chiefs or regents in KZN.

25 The Shepstone System was not dissimilar to indirect rule practised by the colonial administrations of Lugard in Northern Nigeria and Cameroon in British East Africa.

26 M. Butler, 'Traditional Authorities: Know Where to Land. Traditional Authority and Land in KwaZulu-Natal', Report for the Association for Rural Advancement (AFRA) (Pietermaritzburg, AFRA, 2002).

27 J. Laband, *Rape of Sand: The Rise and Fall of the Zulu Kingdom in the Nineteenth Century* (Johannesburg, Jonathan Ball, 1995).

28 P. Bourdieu, *The Logic of Practice* (Cambridge, Polity Press, 1990), p. 170.

29 Butler, 'Traditional Authorities: Know Where to Land', p. 6.

To a considerable degree, these remain the core responsibilities of the *amakhosi* in KZN to the present day. However, this is by way of a sometime turbulent history that changed the texture, if not the basic functions of *ubukhosi*, for even in the pre-colonial era chieftaincy or traditional authority was not unchanging.<sup>30</sup>

During the early colonial period in Natal, Shepstone augmented the position of the *amakhosi* by recognising their right to allocate land, which was held under communal tenure, a factor that did much to reinforce their authority. However, Shepstone retained the right to depose as well as appoint chiefs, and he dealt severely with recalcitrant *amakhosi*. Moreover, from 1850, magistrates were appointed to administer Native Law and to try criminal cases, leaving traditional leaders in charge only of minor criminal cases and dispute resolution. In later years the 'Shepstone System' was refined and codified, ossifying the fluidity and malleability of custom in what Mamdani has described as a 'regime of total control'.<sup>31</sup> To describe Shepstone's system as one of 'total control' is an exaggeration. He may have had such ambitions but he was never able to gain even partial control because he lacked both the resources and manpower. Nevertheless, a pattern of indirect rule was firmly entrenched and taken up after Union in 1910. The Black Administration Act (No. 38 of 1927) stripped traditional leaders of more of their autonomy and the Governor-General of South Africa was allowed to prescribe the duties, powers and conditions of service of the chiefs, who in turn he could appoint or dispose. When the Nationalist Government came to power in 1948, it initially adopted a more conciliatory stance towards traditional leaders. This was because they fitted into its vision of 'separate development'. However, as Govan Mbeki concluded on the role of chiefs under apartheid, they served as 'baas boys',<sup>32</sup> putting on trial and convicting in 'bush courts',<sup>33</sup> those who fell foul of the regime's regulations.<sup>34</sup> As a result of this history, in much of the country traditional authorities became estranged from their people as they became increasingly indebted to the apartheid government, leading to their declining legitimacy and popularity.<sup>35</sup>

In present day KwaZulu-Natal, traditional leadership was tightly intermeshed with the Bantustan system. *Inkosi* Mangosuthu Gatsha Buthelezi, in addition to being premier of the self-governing territory of KwaZulu, was himself a traditional leader.<sup>36</sup> He cleverly employed a strategy of what Maré and Hamilton called 'loyal resistance', which involved pragmatic accommodation with apartheid state institutions, from within the KwaZulu bantustan, which Buthelezi dubbed a 'liberated zone'.<sup>37</sup> Combining the resources of office, his IFP power base and an appropriation of many of the symbols of Zulu culture,<sup>38</sup> Buthelezi occupied an ambiguous

30 Between the late eighteenth century and the mid-nineteenth century a period of political centralisation and state formation under the ascendancy of Shaka Zulu saw the rise of the Zulu kingdom. In stronger chieftaincies both hierarchies and the power of the *inkosi* increased, while conflict led to the flight or subjugation of weaker chiefdoms. This process is known as the *mfecane* (the crushing) and is the subject of much scholarly attention (see J. Guy, *The Destruction of the Zulu Kingdom* (Johannesburg, Ravan Press, 1982); C. Hamilton, *Terrific Majesty: The Powers of Shaka Zulu and the Limits of Historical Invention* (Cape Town, David Philip Publishers, 1998); J. Wright and C. Hamilton, 'Ethnicity and Political Change Before 1840', in R. Morrell (ed.), *Political Economy and Identities in KwaZulu-Natal, Historical and Social Perspectives* (Durban, Indicator Press, 1996).

31 Mamdani, *Citizen and Subject*, p. 63.

32 Baas boy is a South African term for an 'Uncle Tom' or someone who does the bidding of a white boss.

33 Informal justice systems that operate outside of a formal legal framework.

34 G. Mbeki, *South Africa: The Peasants' Revolt* (Baltimore, Penguin Books, 1964).

35 Beinart and Bundy, *Hidden Struggles*.

36 Buthelezi is an *inkosi* and claims royal lineage as King Cetshwayo kaMpande was his maternal great grandfather. On his father's side, he also asserts that his paternal great grandfather served the same king, as prime minister, and was a commander-in-chief of the Zulu army.

37 G. Maré and G. Hamilton, *An Appetite for Power: Buthelezi's Inkatha and the Politics of 'Loyal Resistance'* (Johannesburg, Ravan Press, 1987), p. 195.

38 The appropriation of symbols extended to national resistance culture so that the yellow, green and black colours of the ANC were also the colours of Inkatha, while the Zulu shield was the symbol of *Umkonto weSizwe*, the armed wing of the ANC, as well as Inkatha.



position not only in relation to the apartheid state but also the liberation struggle.<sup>39</sup> He challenged the supremacy of the ANC in resistance politics at the national level and mounted a serious struggle for political control of Natal and KwaZulu at the regional level. He was able to do this because of his support base among KZN's *amakhosi* and their *izinduna* or headmen who both supported and gave credence to his use of Zulu ethnic identity for political purposes.<sup>40</sup>

In order fully to understand the struggle over *ubukhosi* within the broader polity of KwaZulu-Natal, however, it is important to recognise that historically, as in the present, Buthelezi and the IFP have not always had exclusive purchase on the institution. Chiefs were equally courted by the early ANC and, until quite well into the twentieth century, traditional authorities were closely associated with the liberation struggle in present day KwaZulu-Natal. *Mntwana* (princess) Magogo, daughter of the Zulu King, DinuZulu KaCetshwayo (1868–1913) and principal wife of *Inkosi* Mathole Buthelezi, head of the Buthelezi clan, was quite an ardent member of the early ANC and, as a student, Buthelezi himself was thrown out of Fort Hare University in the early 1950s because of his membership of the ANC Youth League. One of the ANC's early national leaders, Chief Albert Luthuli heralded from KZN, and in his address on the occasion of being awarded the Nobel Peace Prize in 1961 he emphasised the role of traditional leaders in resistance: 'Our history is one of opposition to domination, of protest and refusal to submit to tyranny ... Great chieftains resisted manfully white intrusion.'<sup>41</sup>

The early ANC enjoyed support from the chiefs not least because of the way in which they were affected by the Natives and Land Act of 1913.<sup>42</sup> However, when the ANC failed to win back the land, their involvement with the Congress waned. Indeed, once chieftaincy became subsumed within apartheid homeland structures, the Congress movement explicitly associated traditional leadership with apartheid and tribalism. As late as 1988, the ANC declared in its constitutional principles that traditional leadership was anachronistic to their modernist vision and that the organisation would abolish it with the advent of democracy.<sup>43</sup> In the period immediately prior to the negotiated settlement and during the negotiations themselves, it is therefore not unsurprising that forces broadly allied to the ANC were locked in violent conflict with those supportive of traditional authorities, notably the KwaZulu-Natal based IFP. Significantly, the ANC position softened and at its 50<sup>th</sup> National Conference in 1997 it adopted a resolution on traditional leaders,<sup>44</sup> which dissuaded them from participating in party politics but envisaged for them a full and constructive role in consultative processes on local development matters. This constituted a first step by the ANC towards a relationship with traditional authorities reminiscent of indirect rule.

In post-apartheid South Africa, traditional authorities are recognised under the Constitution of 1996 and are represented at national level by the National House of Traditional Leaders.<sup>45</sup> There is also a Provincial House of Traditional Leaders in six of the

39 Marks, *Ambiguities of Dependence*.

40 G. Maré, *Brothers Born of Warrior Blood: Politics and Ethnicity in South Africa* (Johannesburg, Ravan Press, 1992).

41 Document 65: 'Nobel Peace Prize Address' by Chief A.J. Luthuli, 11 December 1961. Published in T. Karis and G.M. Gerhart, 'Volume Three: Challenge and Violence, 1953–1964', in T. Karis and G. Carter (eds), *From Protest to Challenge* (Stanford, Hoover Institution Press, 1977), p. 710.

42 The 1913 Land Act confined the majority of black South Africans to 'native reserves', later to become the 'self-governing homelands'.

43 S. Jacobs, 'The Politics of Traditional Leadership', *E-Politics*, 11 (Cape Town, Institute for a Democratic Alternative in South Africa, 2000), p. 1.

44 *Ibid.*

45 When placed in comparative perspective, the system adopted in South Africa at the national and provincial levels is close to that of Ghana, where traditional authorities have advisory, ceremonial and extra-constitutional powers and are confined to matters of the chieftaincy. At local level, however, the system veers closer to countries where traditional authorities have been incorporated into the processes of modern government such as Botswana and Zimbabwe.

nine provinces.<sup>46</sup> In March 1998, the White Paper on Local Government issued by the Ministry for Provincial Affairs and Constitutional Development accorded traditional leaders an important developmental role in local government but under the rubric of the National Constitution. This meant that municipalities had final and sole jurisdiction, reflecting very much the 1997 ANC position on traditional authorities. The White Paper stated that on issues such as development, 'a co-operative relationship will have to be developed' and it generally presents an image of traditional leaders as benign overseers of local disputes, adjudicators of traditions and customs and facilitators on matters of development. Both the White Paper and the Municipal Structures Act (Act No. 117 of 1998) built in a *consultative* role for traditional authorities at the local level, especially on development issues that did not constitute a privileged role in decision making.<sup>47</sup> Hence, the role of traditional leaders and their position and functions relative to elected councillors and democratic government remained unclear. It has been argued that the Constitution was deliberately vague on the powers and functions of chieftaincy because of ambivalence within the ANC itself over the future of traditional structures.<sup>48</sup> However, efforts by the post-apartheid government to confine traditional leaders to an advisory role or to matters of customary law are constantly contested, nowhere more vigorously than in KZN.

Greater clarity with regard to the governance role of traditional authorities was achieved with the passing of the Traditional Leadership and Governance Framework Act (TLGFA) in 2004. This Act validated the role of chieftaincy in local government through their leadership of traditional councils where they exist (mainly in rural areas) and by endorsing their operation alongside other local government structures. Section Three of the Act states that 'traditional communities' must establish these councils, which in turn must comprise 'traditional leaders and members of the traditional community selected by the principal traditional leader concerned in terms of custom'. Where the old tribal authorities exist, established in terms of the Bantu Authorities Act of 1951, they will simply be converted into traditional councils. This significantly entrenches the authority of traditional leaders, and means, in effect, that legislation introduced in the 21<sup>st</sup> century will give perpetual life to a system of 'indirect rule' dating back to the colonial era and ossified under apartheid. Moreover, the TLGFA has to be viewed alongside the Communal Land Rights Act (CLRA) No. 11 of 2004 which provides for the transfer of ownership of communal land in the former homelands such as KwaZulu from the state to communities resident there. The CLRA accords a central role to 'traditional councils' in the allocation of land, serving to enhance the power of traditional leaders to control property rights.

Why, on the eve of achieving its largest electoral victory ever, did the ANC put at risk the principles of democracy for which it fought so hard and which are enshrined in the Constitution, by rushing through legislation that entrenches the power of hereditary and exclusively male traditional authorities? The answer lies in the recognition by the ANC of the electoral influence of chieftaincy.<sup>49</sup> In accounting for this we can recall that it was following disgruntled traditional leaders in the usually pro-ANC Congress of Traditional Leaders of South Africa (CONTRALESA) threatening to dissuade their subjects from participating in the 1995 local government elections, that the 1997 ANC statement on traditional leadership was made. Similarly, it was just before the 1999 general election that the stipends and

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46 KwaZulu-Natal, Eastern Cape, Free State, Mpumalanga, North West Province and Limpopo.

47 The Municipal Structures Act (Act No. 117 of 1998) served to entrench the focus on the role of traditional authorities in local development, but still firmly under the authority of municipal councils.

48 N. Levy and C. Tapscott, 'Intergovernmental Relations in South Africa: The Challenges of Co-operative Government', in N. Levy and C. Tapscott (eds), *Intergovernmental Relations in South Africa: The Challenges of Co-operative Government* (Cape Town, Institute for a Democratic Alternative in South Africa, 2001), pp. 1–21.

49 Jacobs, 'The Politics of Traditional Leadership', p. 1.

allowances of chiefs were raised as way of pacifying them, effectively doubling the national salary bill for traditional leaders.<sup>50</sup> The TLGFA and CLRA, which elevated the administrative status of traditional authorities even further, narrowly predated the 2004 national elections. Veteran journalist Alistair Sparks advanced the following explanation:

It is a sweetener to the traditional chiefs and headmen – either in the hope of winning them over in the ANC's bid to gain control of KwaZulu-Natal or, on a more charitable analysis, to prevent them instigating bloodshed during the election campaign ... The Deputy Minister of Land Affairs, Dirk du Toit, told a media briefing in Cape Town recently it was imperative that the bill be passed before the election. 'If we want to get security we must work with the traditional groups', he said.<sup>51</sup>

The ANC was correct in its calculations, winning control of KZN provincial government for the first time in 2004. However, the price to be paid for political expediency is very high, particularly for ordinary people. In addition to the fact that displeasing the chief can potentially render an individual or a family homeless and without a livelihood, opportunities for patronage abound.

Women are particularly vulnerable under the traditional system, where they have curtailed rights, no access to communal resources outside their relationship with their father or husband and limited representation on traditional councils.<sup>52</sup> The effect of this legislative change for South African women highlights the contradictions of their position as citizens. There is a gender sensitive Constitution, a Human Rights Commission, a Commission for Gender Equality and a 30 per cent quota for women on electoral lists. However, these arms-length government institutions operate alongside increasingly formalised and integral traditional institutions, dominated by non-elected men who owe their positions to a hereditary principle. The Traditional Leadership Framework Act insists that one-third of the traditional councils must comprise women and that 25 per cent of these have to be elected. Incremental in its approach, the Act states that all traditional councils must adhere to this requirement within the space of four years but there are no sanctions for failure to do so. As with Peggy Nkonyeni in her dispute with Prince Gideon Zulu, responsibility falls to women to challenge political exclusion and policy injustice, in this case by having to take to the Constitutional Court the claim that the joint effect of the Acts is anti-constitutional in their gender discrimination. This renders it possible to fight for democracy but not to take it for granted. The electoral influence of traditional leaders and the elevation of chieftaincy through their involvement in developmental local government in South Africa, also demonstrates the limits of indirect rule.

### ***Ubukhosi* in the 'New' KwaZulu-Natal**

The *amakhosi* and their *izinduna* in KwaZulu-Natal continue to occupy a particularly ambiguous position in the province's institutional landscape. This is because in addition to their electoral influence, some of them played a critical role in fostering or perpetuating the political violence that plagued the province during the transition from apartheid. While the civil war in KwaZulu and Natal was primarily an urban war, especially in the early stages, it was fuelled from the countryside, where the *amakhosi* and their *izinduna*, most of whom gave

50 C. Goodenough, *Traditional Leaders, A KwaZulu-Natal Study, 1999 to 2001* (Durban, Independent Projects Trust, 2002), p. 20.

51 *Natal Witness*, 25 February 2004.

52 J. Beall, 'Decentralizing Government and De-centering Gender: Lessons from Local Government Reform in South Africa', *Politics and Society*, 33, 2 (June 2005), pp. 253–76.

their allegiance to Inkatha, called on the inhabitants of their areas to fight and attack the militant youth in the cities' townships. As Kentridge has explained, they were able to 'exact their traditional rights from farmers and homesteaders in the form of military duty'. They did so in return for favours 'ranging from land allocation to the issuing of licences' which though not a legal obligation was 'a difficult summons to resist nonetheless'.<sup>53</sup>

The ANC was ultimately successful in winning a political victory at national level and the party retained its popular urban support base in KZN. This provided a platform from which to try and win over a larger vote within the province. It also countered a tendency dating back to colonial times, for provincial politics in present day KZN to work both within and without the South African polity and often at odds with the mainstream. Undercurrents of secessionism were rife in the region among the predominantly English-speaking white population in Natal,<sup>54</sup> matched by Buthelezi's periodic efforts towards KwaZulu separatism, including support for a consociational and/or federal political dispensation for post-apartheid South Africa. Indeed, it was only at the last minute that the IFP was added to the national ballot form, when Buthelezi finally agreed to participate in the historic 1994 elections and his secessionist threats have continued until very recently.<sup>55</sup> Against this background, few were surprised that KZN was experiencing a more difficult and protracted transition to democracy when the rest of the country was caught up in the euphoria of declaring itself 'the rainbow nation'.

Political reconciliation was easier to effect in the context of national politics, where senior politicians in both the ANC and IFP began to enjoy the fruits of office and patronage than at provincial level where the rewards were more modest and the challenges in some ways far greater. Key provincial government portfolios fell under ministers of different political persuasion who did not co-operate. Administrative integration was also difficult. One outcome was the fragmentation of the provincial bureaucracy across three geographical centres (Pietermaritzburg, Ulundi and Durban) making inter-sectoral co-ordination and the achievement of national government's target of 'integrated development planning' difficult.<sup>56</sup> Moreover, the amalgamation of the old Natal and KwaZulu bureaucratic administrations proved particularly intractable because each exhibited a very different organisational ethos. One element of this was the significance accorded to *ubukhosi* in the old KwaZulu administration so that reaching an acceptable decision on the role, powers and functions of the *amakhosi* emerged as a fissure in the bureaucracy as well as in ANC and IFP relations in the province. Another is that many *amakhosi* are not only involved in the administration of the province on traditional councils and other local government structures but they are also IFP MPs.

An additional point of conflict has been the repeated attempts by the KwaZulu-Natal government, since 1994, to pass its own Constitution, another recent manifestation of the region's separatist impulse. A draft Provincial Constitution was passed in 1996 and ratified by

53 M. Kentridge, *An Unofficial War: Inside the Conflict in Pietermaritzburg* (Cape Town, David Philip, 1990), p. 52.

54 For example, predominantly English-speaking white Natalians hesitated to join the Union of South Africa in 1910, railed against South Africa becoming a Republic in 1961, mourned the departure from the Commonwealth and relished their self-styled identity as 'The Last Outpost' of the British Empire (see J. Beall, J. Grest, H. Hughes and G. Maré, 'The Natal Option: Regional Distinctiveness within the National Reform Process', (paper presented at the Seventeenth Annual Congress of the Association for Sociology in Southern Africa, University of Natal, Durban, 1986).

55 *Natal Mercury*, 18 March 2002.

56 Ulundi was the capital of the self-governing territory of KwaZulu and Buthelezi's power base, Pietermaritzburg was the capital of Natal Province also a centre of ANC support, while Mtshali controversially lives in the main urban centre Durban where much bureaucratic business gets done, but insists on still keeping both provincial capitals. Vast amounts of money are spent on flying the Premier, Lionel Mtshali, and members of the Provincial Assembly from one capital to another in a Lear jet bought especially for the purpose.

all seven parties in the Provincial Legislature. In KZN much more permissive legislation already existed in the former self-governing territory of KwaZulu in the form of the *KwaZulu Amakhosi and Iziphakanyiswa Act* (Act No. 9 of 1990) and its various amendments.<sup>57</sup> These Acts saw the *amakhosi* and *isiphakanyiswa* (chiefs not of royal blood) not only upholding traditional laws and customs but also having a more significant role at local government level. The *amakhosi* were able to gain ground due to limited constitutional or legislative guidance on local government and the fact that 'traditional leaders were given tremendous powers over a relatively lengthy period of transition'.<sup>58</sup> In KZN this allowed them to entrench their already considerable influence at local level and then to extend it further in the context of national level negotiations. The draft Provincial Constitution contained a chapter on the monarch, traditional authorities and related matters. It sought to curtail the powers of the Zulu King who had aligned himself to the ANC, by requiring that his actions needed to be approved by the Premier and where appropriate, the competent Minister. Not surprisingly, given its origins with IFP members and supporters, the draft simultaneously sought to elevate the position of the *amakhosi*, 'as the primary local government administrators of their respective communities'.<sup>59</sup> The application to the Constitutional Court was ultimately disallowed but the debate continues to simmer.

Most work on traditional leadership in South Africa and KwaZulu-Natal in particular, is concerned with chieftaincy in rural areas. It is here that traditional authorities wield most authority and are often most autocratic. It is also in the countryside and former homelands that their services are most urgently required in terms of administration and governance, given the hiatus in local government under apartheid outside of (white dominated) cities and towns. An interesting exception is Greater Durban, where in 2000 the new eThekweni Metropolitan Municipality (hereafter eThekweni or the Metro)<sup>60</sup> incorporated fifteen traditional authority areas into the metropolitan region, along with their *amakhosi* and *izinduna*.<sup>61</sup> The formation of eThekweni Municipality followed the deliberations of the Municipal Demarcation Board, set up after the first round of local government elections in 1995/6 to redraw municipal boundaries across the country.<sup>62</sup> eThekweni now includes vast peri-urban areas so that within the Metro's boundaries only 35 per cent of people live in areas that are characteristically urban. For example, 60,000 households in eThekweni still live in traditional rural style dwellings.<sup>63</sup> The experience of eThekweni provides useful lessons because of the relatively greater

57 There were subsequent amendments: KwaZulu Amakhosi and Iziphakanyiswa Amendment Act, No. 9 of 1991; KwaZulu Amakhosi and Iziphakanyiswa Amendment Act, No. 3 of 1992; KwaZulu Amakhosi and Iziphakanyiswa Amendment Act, No. 7 of 1993; and KwaZulu Amakhosi and Iziphakanyiswa Amendment Act, No. 19 of 1993 (Goodenough, *Traditional Leaders*, p. 30).

58 L. Mbatha, 'Democratising Local Government: Problems and Opportunities in the Advancement of Gender Equality in South Africa', in A.M. Goetz and S. Hassim (eds), *No Shortcuts to Power: African Women in Politics and Policy Making* (London, Zed Books, 2003), pp. 188–212, p. 191.

59 Cited in Goodenough, *Traditional Leaders*, p. 36.

60 The Metro united the seven former local councils responsible for administering the old Durban metropolitan area as well as extending the municipal boundaries further. Today the Metro occupies approximately 2,300 km<sup>2</sup> and constitutes 2 per cent of the total area of KZN. It has a population of over three million people, almost a third of the total provincial population of 9,426,017 (Stats South Africa, *Republic of South Africa Census* [Pretoria, Government Printer, 2001]).

61 These traditional authority areas formerly fell under the Ilembe Regional Council, a transitional governance structure that had been set up after the 1996 local government elections to cover the peri-urban area lying between the cities of Durban and Pietermaritzburg. The tribal authority areas, characterised by communal land tenure arrangements, were formerly administered by the KwaZulu homeland government, which failed to develop them.

62 It was set up under the Municipal Demarcation Act (Act No. 27 of 1998) and reduced the number of municipalities from 843 to 284 (Goodenough, *Traditional Leaders*, p. 40). The intention was in part to engineer an element of redistribution across former white and black areas but some commentators claim that there were gerrymandering motivations involved as well, to ensure that Durban remained firmly in the hands of the ANC.

63 South African Cities Network, *The State of South African Cities – 2004* (Johannesburg, The South African Cities Network [SACN], 2004).



experience with local level democracy in cities than in the countryside. A question that arises is whether the institution of *ubukhosi* might evolve or mutate through its encounter with more democratic institutions of governance.

The peripheral boundaries of eThekweni were a source of profound political tension between the ANC and the IFP because they traversed tribal authority areas. Initially, the *amakhosi* in Greater Durban did not want to be part of the demarcation process and negotiations with them were difficult, not least because some of the new municipal boundaries cut right across former rural districts and tribal authority land. Another early bone of contention was the perceived lack of consultation with the *amakhosi* during the demarcation process and the perceived threat as to the future of *ubukhosi*.<sup>64</sup> Disagreements also coalesced around the balance of power between the *amakhosi* and elected councillors, as the traditional leaders were mainly supportive of Inkatha, while the mayor and a majority of the councillors in the city were affiliated to the ANC. Lastly there were anxieties regarding the role and representation of the *amakhosi* in municipal structures. The *amakhosi* were further exercised by the fact that the Municipal Structures Act (1998) made no substantial provision for their participation in the municipal councils, which incorporated traditional authority areas. Although the legislation allowed for traditional leaders to attend and participate in council meetings, they were no longer first among equals.<sup>65</sup>

In effect, what was being played out in eThekweni was a struggle over the nature of 'indirect rule' in the urban periphery of Durban. Traditional authorities were fearful that the municipality would undermine their leadership status and take over their customary responsibilities. They were reluctant to participate as functionaries in developmental local government if that meant the *amakhosi* being eclipsed by officials and representatives of metropolitan local government. On the part of the ANC-led eThekweni Metro, initially their stance was in line with progressive voices within the ANC at the time, as well as the DA in KZN, that traditional leaders could not expect the same rights as democratically elected representatives and that they should not be allowed to hold the political process to ransom. Implicit in this view was that they should be developmental administrators rather than part of the political process. However, when at central level the ANC started back-peddalling in its approach towards the *amakhosi*, the ANC-dominated eThekweni Metro found itself caught between those within the Party who saw themselves primarily as democrats, and Africanists who supported conceding more and more ground to the chiefs.

Ultimately, the Metro adopted a conciliatory approach, reflected in the *Newsletter of the City Manager* of 18 March 2003 announcing greater participation by the *amakhosi* in metropolitan governance:

17 March 2003 will go down in history as a day of significance for developing broad-based institutions of governance in eThekweni and South Africa. In the eThekweni Council meeting of that date, Council agreed that those traditional leaders with jurisdiction within the boundaries of eThekweni should be invited to participate in municipal affairs ... [T]hat decision of Council will go a long way to restoring our sense of who we are and where we have come from. In section 212 [sic] of the Constitution provision is made that national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities. The Municipal Structures Act regulates that arrangement and today's decision by Council brings it into effect. By doing so, eThekweni becomes the first metropolitan area, and the first major municipality, to allow for traditional leaders to participate in the affairs of governance.

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64 S. Mkhize, P. Sithole and S. Vawda, 'Governance, Democracy and the Subject of the Traditional Authorities in the eThekweni (Durban) Metropolitan Region' (unpublished mimeo, 2001).

65 The Act allowed traditional authorities observer status in municipal councils and 20 per cent representation, but traditional authorities were given no special status over and above anyone else.



Both the Municipal Structures Act and the White Paper on Local Government had built in a consultative role for traditional authorities at the local level, especially on development issues. However, this did not constitute a direct role in decision making. While in Durban the emphasis on a developmental role remained, this statement by the City reflected a more serious commitment towards involving the *amakhosi* of eThekweni more actively and substantively in representation and the decision-making process, in many ways prefiguring the national level Traditional Leadership and Governance Framework Act that followed.

eThekweni Metro has now introduced a Programme for *Amakhosi* Support and Rural Development and traditional leaders now participate in municipal affairs, getting a monthly allowance of R3,500 (about £325) for doing so.<sup>66</sup> In addition, the *amakhosi* are organised into a committee under the chair of one of the councillors who also negotiates with them individually in their areas. The *amakhosi* have Council resources including access to rooms and buildings and the programme has an administrative assistant. A Trust has been set up to access funds, including from overseas funders, which are geared towards supporting various projects, especially for peri-urban and tourism development. In the battle for the hearts and minds of eThekweni's *amakhosi*, the City is seeking to deliver to traditional authority with capital investment to the tune of R200 million in the next planning phase.<sup>67</sup> As such, eThekweni Metro has thrown down the gauntlet to the *amakhosi* and they are being encouraged to earn the right to represent their people by accommodating themselves to democratic processes and outcomes in the context of development practice and city governance. There is evidence to suggest that investment and development is leading some among the *amakhosi* to question whether their loyalties are better served by engagement with the city rather than with the IFP and the Province.<sup>68</sup> It may well be that the deliberate channelling of resources to eThekweni Municipality's traditional authority areas is designed to win political favour in IFP supporting areas, rather than to win the chieftaincy over towards democratic metropolitan governance. Nevertheless, the demonstration effect of development for democracy is leading non-participating traditional authorities to ponder where their future best lies. Furthermore, our interviews with *amakhosi* suggest that opposition or passive resistance is in some quarters turning to grudging and even enthusiastic acceptance.<sup>69</sup>

It is too soon to tell whether this is a unidirectional and sustainable trajectory in the province's largest city, let alone whether it will resonate across rural KwaZulu-Natal. Even in eThekweni there is suspicion on the part of some of the *amakhosi* over arrangements for their representation, understandable given that arrangements for their current involvement in sub-national governance come in the wake of layer upon layer of manipulation of the institution of *ubukhosi*. Beginning with the colonial administration under Shepstone, this continued into Union and was consolidated under the apartheid regime. Furthermore, in KwaZulu-Natal, *ubukhosi* also became a bitter site of contest between the IFP and the ANC during the anti-apartheid struggle and well into the period of reconstruction and development. For some of the *amakhosi*, eThekweni Municipality is regarded as just one more structure in a long line of local government arrangements that have sought to strip them of their control over land and to circumscribe their authority, often while increasing their responsibility for delivery and development.

66 Traditional leaders participate in eThekweni Metro's council meetings but they cannot comprise more than 20 per cent representation on municipal councils and do not have voting rights, nor can they deal with the budget.

67 Personal Communication, Michael Sutcliffe, April 2003.

68 J. Beall with S. Mkhize and S. Vawda, 'Navigating Tradition: Traditional Authorities and Governance in eThekweni Metropolitan Municipality in South Africa', *International Development Planning Review*, 26, 4 (2004), pp. 457–76.

69 *Ibid.*

Nevertheless, the *amakhosi* are not a homogeneous group. Among the fifteen traditional authority areas in eThekweni there are those where the *inkosi* has real authority and those where he is more of a stooge and where power lies with the *izinduna*. In some areas there is conflict between the traditional leaders and the councillors, while in others there is significant co-operation among them in the interests of bringing development to their area. There is also substantial evidence to show that this is paying off.<sup>70</sup> From the perspective of the City, the *amakhosi* cannot be ignored, even in the urban realm. Many people still deem the institution of *ubukhosi* relevant and even important, sometimes crediting their *inkosi* with positive changes wrought in fact by the Metro.<sup>71</sup> However, according to the City Manager, whatever slack they have been given, they still have to engage with City Hall according to democratic practice and their primary role remains delivering development to their people, according to the development imperatives of the particular areas.<sup>72</sup>

## Conclusion

If traditional authorities are to earn some level of legitimacy and to participate as important but equal actors in local and provincial government, then the experience of the first ten years of democracy in KwaZulu-Natal offers some useful lessons. Critically, the *amakhosi* need to remain at arm's length from electoral politics and work with democratically elected representatives in delivering developmental local and provincial government. Survey evidence from eThekweni suggests that ordinary people value some of the customary functions performed by traditional leaders and their participation in representative community structures.<sup>73</sup> Nevertheless, for the province as a whole this ideal remains a long way off, not least because many of the *amakhosi* are unwilling to relinquish their grip on local politics and their control over resources, notably communal land. To the extent that they engage in pluralistic institutional arrangements, it has been very much in response to carrots rather than sticks. Moreover, the knot of bureaucratic and socially embedded institutions is tightly entangled in the administration and politics of the province, even in urban areas. As such, simple dichotomies such as 'citizen and subject'<sup>74</sup> do not really apply to this region, historically but more especially in present-day KwaZulu-Natal.

While institutions are resistant to change, and nowhere is this in greater evidence than KwaZulu-Natal, they can and do evolve. Moreover, as Bates has argued, we often underestimate the extent to which political interventions and settlements can create new or lead to the evolution of old institutions.<sup>75</sup> Under colonialism, segregation and apartheid, the institution of *ubukhosi*, while dogged, changed significantly. By the same token, the current use being made of traditional leadership by central government chimes clearly with elements of the 'indirect rule' of yesteryear. Yet over the first decade of democracy, traditional institutions such as *ubukhosi* have found themselves in a difficult and less straightforward political competition with those underpinning liberal democracy. At one level this is illustrated by the report of the exchange between Prince Gideon Zulu and Peggy Nkonyeni in the KwaZulu-Natal Legislative Assembly and the fact that Nkonyeni had recourse to

<sup>70</sup> *Ibid.*

<sup>71</sup> J. Beall, 'Exit, Voice and Tradition: Loyalty to Chieftainship and Democracy in Metropolitan Durban, South Africa', *Crisis States Programme Working Paper No. 59* (London, Crisis States Development Research Centre, Development Studies Institute, London School of Economics, January 2005).

<sup>72</sup> Personal communication Michael Sutcliffe, April 2003.

<sup>73</sup> Beall, 'Exit, Voice and Tradition'.

<sup>74</sup> Mamdani, *Citizen and Subject*.

<sup>75</sup> Bates, 'Social Dilemmas and Rational Individuals'.

horizontal institutions of accountability such as the Commission on Human Rights and the Commission on Gender Equality. At another level, despite the seeming regression of the Communal Land Rights Act and the Traditional Leadership and Governance Framework Act, in contemporary South Africa people can exercise electoral influence.

In the meanwhile and in a context of institutional multiplicity, processes of institutional mutation are taking place in South Africa, giving rise to mutually constitutive forms of governance in some areas. Our research in eThekweni suggests that there are areas of accommodation emerging between so-called traditional institutions and so-called modern ones, sometimes spontaneous and sometimes deliberately forged.<sup>76</sup> Examples of orchestrated institutional multiplicity can be seen in respect for cultural practices and protocol, for example observing rituals of respect towards the *amakhosi* and urban local councillors donning traditional dress in municipal council meetings. Less concocted illustrations include the *inkosi* arriving at a constituency meeting in his four-by-four vehicle and accepting the participation of women and men as equals in local community structures. Such changes, whether spontaneous or contrived, render analogies with 'indirect rule' under colonialism and beyond somewhat limited, given the broader institutional context of post-apartheid South Africa.

In such contexts, which admittedly remain fairly limited at present, it appears possible that the institution of chieftaincy could bring its remarkable attributes of solidity and cohesion to bear on democratic governance in South Africa, becoming a site for political stability in South Africa without undermining the hard-won rights of citizens. However, to the extent that *ubukhosi* remains a political football and given that, to date, the mounting concessions towards the *amakhosi* have occurred at the expense of citizens, notably women, then chieftaincy seems set to remain a faultline running through South African democracy for some time to come. Institutions can be left to simply evolve and mutate and it might be argued that the demonstration effect of successful development for co-operating *amakhosi* is one way of hastening this process along. Nevertheless, a question remains as to whether this will be too protracted a process for the safeguarding of South Africa's democracy, especially its commitment to gender equality and human rights.

What ultimately becomes 'rational' to individuals and normative in society is shaped by the diffusion of cultural values and practices through institutions in all their forms.<sup>77</sup> However, as Whitehead and Tsikata have argued with regard to women in Africa, 'the answer is democratic reform and state accountability, particularly with respect to women's political interests and voices, not a flight into the customary'.<sup>78</sup> In South Africa this requires a conscious political challenge to the persistence (as opposed to the 'resurgence') of hierarchical and patriarchal institutions and practices associated with chieftaincy. This is politically difficult to achieve because 'traditional' institutions intersect social, political and administrative organisations, particularly in KwaZulu-Natal. Nevertheless, if the fragile stability of South Africa's nascent democracy is to be maintained, much depends on the resolve of the ANC not to give in to the more pedantic demands of traditional leaders in the interests of political expediency. This is essential because, ultimately, a democratic polity is predicated upon a democratic society. The latter cannot be forged at the ballot box and cannot be achieved without respect for and the equal participation of all citizens.

76 Beall, Mkhize and Vawda, 'Navigating Tradition'; Beall, 'Exit, Voice and Tradition'.

77 P.A. Hall and R.C.R. Taylor, 'Political Science and the Three New Institutionalisms', *Political Studies*, 33 (1996) pp. 13–19.

78 A. Whitehead and D. Tsikata, 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary', *Journal of Agrarian Change*, 3, 1/2 (January and April 2003), pp. 67–112.

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