

# RETHINKING CHIEFTAINCY AND THE FUTURE OF RURAL LOCAL GOVERNMENT

## A PRELIMINARY INVESTIGATION<sup>1</sup>

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### Introduction

The more recent academic writing on tribal authorities within South Africa tends to dismiss such structures on the basis that sometimes crumbling indigenous institutions have been resuscitated and transformed into coercive instruments which derive their authority and legitimacy exclusively from the powers vested by higher authorities. Moreover, they are seen as inefficient, corrupt and undemocratic (Daphne, 1982; Haines and Tapscott, 1986; Udit and McIntosh, 1988; Zulu, nd). Similar critiques were typically espoused by new governments in post-independent Africa, traditional authorities being seen as conservative, reinforcing tribal rather than national affiliations and having histories of collusion with colonial governments (Van Rouveroy-Van Nieuwaal, 1987:3; Mawhood, 1982/3:209). Such states believed that their new leaders would be able to 'select the functions that government would perform, and to design structures which would perform them efficiently' (Mawhood, 1982/3:210). Although critics of tribal authorities within South Africa have not addressed what might replace them, the implication is that alternatives forms of local government are possible. This optimism, however, is not shared by all writers of the post-colonial African experience. Attempts to replace chieftaincy with reformed local institutions of authority have often been modified by pre-existing traditional structures (Mawhood, 1982/3:211). As Van Rouveroy-Van Nieuwaal (1987:20-23) suggest, traditional leaders have reasserted or maintained their influence in a range of countries which attempted to limit their role. These include, Ghana, the Niger Republic, the Republic of Chad, the Ivory Coast, Senegal, Nigeria, Sierra Leone, Zambia and Tanzania.

The question of chieftaincy and its future in South Africa arises at present from the apparent dissention of significant numbers of traditional leaders with existing arrangements within the bantustans and their constitution into a national grouping, the Congress of Traditional Leaders of South Africa (Contralesa) sympathetic to the ANC. Statements of support for their endeavour from the Mass Democratic Movement as well as the ANC would appear to indicate that a role for traditional leadership in the future, has been recognised, although

precisely what this role is likely to be does not appear to have been articulated as yet (Chief Maphumulo, interview, 25.08.89).

The changing political environment in South Africa also places on the agenda the question of whether and to what extent local participation in decision making can be fostered in bantustan areas. The answers to these questions preclude the consideration of the structures and processes required for local participation. We equate participation with 'achieving power... in terms of access to, and control of, the resources necessary to protect livelihood' (Oakley and Marsden, 1984:27). This differs from previous formulations of 'participation' which have included information sharing or mobilizing to prepare 'the rural population to collaborate in government development plans' (1984:27) or 'the establishment of formal organizations... to provide the structure through which rural people could have some contact with and voice in development programmes' (1984:28). While participation as 'empowerment' may not be possible without organization, it does imply the generation of 'countervailing power to confront the already well-established power configuration' (1984:26). Oakley and Marsden go on to suggest that existing configurations of power, production and ideological values tend to constitute supreme structural obstacles, however (1984:30).

It is in the context of the above concerns that questions about the future of chieftaincy and of rural local government need to be raised. This paper is a preliminary attempt to reformulate the manner in which questions about 'chieftaincy' and possibilities for participation in rural local government have been posed. It suggests that where chiefs have been able to maintain local legitimacy, they have needed to do so owing to the weakness of their positions and their need to secure their authority by building local consensus. Given, the weak economic base and the concomitant institutional vacuum existing within such areas, it is suggested that the strengthening of the powers and capacity of chiefs by higher authorities is likely to increase corrupt and authoritarian practices. Building participatory local government structures from below is fraught with difficulties, however. These include the need for extensive development resources around which community infrastructures can be built - and the threat the emergence of developmentally-oriented organizations potentially pose to chiefs - as well as the absence of a political culture imbued with principles of representation, accountability and reporting back.

### **Capacity and Limits of Tribal Authorities**

In 1891 the Natal Code stipulated that the Governor of the colony as 'Supreme Chief' could appoint and remove chiefs and any chief of a tribe is a minor deputy of the Supreme Chief (Daphne, 1982; Maré and Hamilton, 1987). This position

has remained little changed, indigenous local government in Natal subsequently being integrated into and subservient to the Union, Republican and Kwazulu governments through district magistrates.<sup>2</sup> In terms of present legislation tribal authorities refer to indigenous authorities, while community authorities refer to authorities which have been established by the State President where no tribal authority already exists.<sup>3</sup> While chiefly (or headmen's) accession to power is through inheritance in the case of tribal authorities, it is through election in the case of community authorities. Moreover, while tribal councillors are appointed within tribal authorities by the chief, they are elected in the case of community authorities. Apart from bearing direct responsibility to district magistrates, tribal and community authorities obtain representation to the Kwazulu legislature through regional authorities. These consist of a number of tribal/community authorities within given districts which elect representatives to the Kwazulu Legislative Assembly. There are 24 such regional authorities in Kwazulu.

In terms the Zulu Chiefs and Headmen's Act (8 of 1974), powers of tribal/community authorities refer primarily to judicial and control functions with only one item referring to the chief's promotion of 'the interests of his tribe and of the region, and ... (to) initiate measures for the advancement of his people' (cited in Maré and Hamilton, 1987:232).

As will be argued below, functions of tribal authorities tend to be limited to land allocation and judicial duties. These powers have generally been seen as the means through which chiefly authority is maintained (Daphne, 1982; Haines and Tapscott, 1986; Zulu, nd). Land allocation and judicial functions are also areas where charges of abuses of power are usually levelled at tribal authorities.

Land hunger, resulting from the removal of people from black freehold land within white group areas ('black spots') as well as the eviction of labour tenants from white farms provides the context within which the abuse of land allocation rights may be understood. Population movements off white farms and 'black spots' have been prevalent in Natal over the previous three decades, contributing to increased populations within tribal areas both near and distant from urban centres. Immigration is a feature of all the tribal/community authority areas within the Mpumalanga District (where interviews were conducted) which has led to the allocation of smaller sites and fields than had been the case in the past. Accusations of high site fees being charged by other tribal authorities were also levelled in interviews with chiefs and ndunas from the Mpumalanga region, accusations which have been echoed in Kwazulu Legislative Assembly Debates (KLAD) over the years. Chiefs were castigated by Buthelezi (who was then Chief Executive Councillor for Kwazulu) for illegally charging for the allocation of sites in 1975, and warned 'not to continue with the unlawful practice of receiving money in kind in return for the allocations of a site' (KLAD 7,

1975:695); again in 1978 chiefs were attacked for 'fleecing' their people by charging for sites, arable land and services such as the processing of pension applications (Maré and Hamilton, 1987: 90). Maré and Hamilton also cite Zulu whose research in the early 1980s indicated that 'nine out of ten respondents who required a site on which to build a house had to make some monetary payment to the chief or the local nduna' with 40 percent having to pay for the processing of pension applications or disability grants (Maré and Hamilton, 1987:90). In 1987, Buthelezi again complained of chiefs who:

...actually ask people to pay when they receive them in their areas... acting chiefs in particular seem to be offenders as far as this is concerned... someone was informing me that he had to pay 1000 rand for a site and ... bottles of whisky (KLAD 45, 1987:854).

Power deriving from rights of land allocation and the ability to abuse such rights should not be exaggerated. All the tribal authorities in Mpumalanga had households taking over land for which authority had not been given or fees not paid to the tribal authority, both on account of corruption by ndunas in which they would pocket site fees, or their not collecting fees owing to their absence.

While limited, rights of land allocation are certainly a central basis of power for tribal authorities. This is clearly recognized by chiefs and headmen in interviews conducted with 54 tribal and community authorities by Marais (1989: 27), of whom three quarters were opposed to any change in tribal rights of land allocation.

### Judicial Powers

In terms of the Black Administration Act<sup>4</sup> the Kwazulu Minister of Justice is empowered to appoint indigenous local leaders as judicial officers. In this regard, indigenous leaders are placed in a direct relationship with magistrates whose courts are regarded as courts of appeal from the tribal court. Judicial powers exclude chiefs, ndunas or assistants from trying a host of crimes, although as Callahan (1986) points out, alternative (lesser) charges may be used instead. Punitive measures are limited to fines of up to R165 and/or corporal punishment, although as a number of chiefs pointed out, fines are not always paid, encouraging the use of corporal punishment on youths.

As with the right to allocate land, judicial powers have their limits. Apart from the limited punitive measures tribal courts can apply, they have limited knowledge about the extent of their authority as judicial officers. Complaints by the Kwazulu Minister of Justice in 1981 that 'the chief's criminal courts are... in many cases ineffective... (where they) do not use to the full the jurisdiction they have been given... (including) powers of arrest; powers to

disperse... unauthorized assembly of armed persons... the carrying of... a shield or more than one stick, the shouting of war cries...' (KLAD 22, 1981:660) are explained in a reply to the debate as due to ignorance of the law on the part of chiefs who '...are not people well versed in reading...(and need) to be reminded of these laws' (KLAD 22, 1981:673-4). Complaints about insufficient training in court procedure and the fact that the judgments of tribal courts are often overruled where chiefs do not register their judgments in the prescribed period were expressed in the interviews within Mpumulanga.

Concerns that chiefs may not be sufficiently equipped for their judicial functions are echoed by Dlamini (1988:153). He argues that '... it cannot be taken for granted that chiefs possess enough knowledge of the law they are supposed to apply' (Dlamini, 1988: 154), ascribing this to the fact that the chief's court no longer serves as an efficient training ground and mechanism for a passing on of knowledge - court sessions are poorly attended on account of the frequent absence of ndunas and councillors who of necessity work in the cities. This situation, he contends, has been aggravated by the frequent amendments to customary law by legislation or higher courts with which the courts have not kept pace (Dlamini, 1988:154). Thus, the Kwazulu Minister of Justice stated in 1987 that new legislation was not being applied in most chiefs' courts.

Education levels and a lack of training certainly suggest constraints in the ability of chiefs to fully exercise existing powers, especially since the average educational level of chiefs/headmen in Marais' survey is only seven years. More important, perhaps, is the poverty of the tribal authorities themselves. With the exception of the densely populated Ilanga Community Authority, bordering on the Mpumulanga township which had employed water minders, the only salaried officials within the tribal authorities interviewed were tribal secretaries and the chiefs/headmen themselves. Where such chiefs/headmen were not members of the Kwazulu Legislature, remuneration consisted of a R269 monthly stipend and (in one case) additional contributions from the tribal funds. Apart from occasional grants made by the Kwazulu government for specific projects, these funds derive from a tribal levy, dog taxes, customary fees (fines for premarital pregnancies), court fines and site fees/tribute. No remunerations are received by ndunas and councillors except for occasional charges made for undertaking specific duties (such as court messages/summons).

One consequence of the poverty of tribal authorities is the fact that a large proportion of ndunas have full time jobs in the city or spend a considerable amount of their time looking for work in urban centres. Roughly half the ndunas within the Mpumulanga region were only 'home' at weekends. Under these conditions it is not surprising that the chiefs interviewed were finding it difficult to get ndunas to undertake official functions, some being accused of doing

nothing other than attending council meetings; others allowing settlement within wards without introducing incoming people to the tribal authority or alternatively pocketing site fees/tribute for themselves.

Suggestions that chiefs and ndunas have lost status and are open to corruption as a result of low remunerations is an ongoing theme throughout the KLA debates. Some of the concerns are expressed below:

According to our custom, a chief must always have the largest kraal in his area... this is no longer the case... we have now reached a stage where the chiefs are very poor - very often an ordinary man, a commoner, is more wealthy than the chief, and this is a disgrace because their children are better dressed than the children of the chief... The chiefs cannot afford to send their children to school... those chiefs who are more fortunate and have other jobs, should not be doing this work... when you see a chief talking to a shop owner it would seem as though the shop owner is bribing the chief (KLAD 8, 1976:69).

...if we paid salaries to the chiefs, indunas and tribal police it will help these people go back to being the men they once were and regain the dignity they once enjoyed and have now lost (TH Zuma, KLAD, 8, 1976:613).

...ndunas are getting something from the money that is paid out to the aged, because the indunas are very poor today, having lost all their livestock... we find that there is a great deal of mistrust and I think it will even spread to the tribal chiefs who at times may be implicated (ES Sithebe, KLAD 21, 1981:446).

...because chiefs are not well paid and their salaries are inadequate... they are tempted... to accept bribes. Some of these chiefs are making people pay for the sites on which they build their kraals... money is charged (by an nduna) because he has attended a wedding as an official witness... it is for his own pocket (KLAD 22, 1981:613).

I believe the property those men (ie chiefs) had at that time caused them to be powerful and recognized by the community. During that time faction fights which are troubling us now, would not have occurred to the same extent, because the men of that time, those indunas were so powerful that they would simply say who was responsible for the faction fights. Then came the starvation and the men disappeared. Today, instead of working for the nation and doing things that will help the nation these men are troubled

by starvation... Today ... (the tribal officials) can never go and stay with the chief and advise him and work with the chief... instead they have to go and work to feed their families... we often hear that a chief attended a meeting with white officials who were wearing safari suits and thereafter a bag of sugar was put in the chiefs car, so that the chief would keep quiet and not divulge what was discussed... That is why we have leaders who are not trust worthy (KLAD 22, 1981:610-611).

If the notion that chiefs are 'all powerful' is swept away, the question is raised as to how chiefs continue to obtain legitimacy. The idea that the institution of chieftainship is viewed as wholly illegitimate is difficult to sustain. Dlamini's surveys (1987) suggest that the tribal court is preferred to the magistrates' courts amongst respondents throughout Kwazulu districts. This is echoed by Marais (1989) whose survey amongst 54 chiefs revealed that 10 percent of chiefs had never had cases being taken on appeal to the magistrate. As far as community support is concerned, Marais' survey goes on to suggest that 90 percent of the 54 tribal chiefs were satisfied with the community support received (1989:13). Where, with the exception of the chiefs' stipend and the tribal secretaries' salary, chiefs rely on voluntary labour to fill the offices of the tribal authority, it is difficult to believe that they are able to exert a level of influence and stability without a measure of consent. As complaints by chiefs about their inability to rely on the police in times of civil discontent testify, they are not necessarily in a position to rely on the coercive powers of the state to enforce consent. It is in this light, rather than the legal stipulation that chiefs' decisions shall be binding only with the consent of the tribal council, that the importance the Mpumalanga chiefs place on gaining the consent of councillors before taking decisions is to be understood.

To suggest that the necessity for rule through a level of consent derives precisely from the weakness of tribal authorities is also to suggest that greater authoritarianism could well result from the strengthening of existing powers and resources of chiefs. The relative power of individual chiefs compared with others provides a useful means for illustrating this hypothesis. Comparing two chieftains' districts in which development projects were attempted, Friedman and McIntosh (1988) ascribe the failure of a development project within one of them to the strength of the chief which had prevented a developed second-tier leadership. Consequently, 'without the chief's authority, the management lacked the will to implement decisions taken by the committee. A consequence was that ... the service organization did not want to hand it over to the chief merely for his and his family's benefit ... (As a) result the project is going to seed' (1989a: 3). A quite different scenario results within a different district where 'the chief does not wield as much power and there is a more developed second

tier of leaders' (1989a: 4).

Similar examples can be found elsewhere. Callahan explains the ability of a Zulu chief to take decisions without consulting his tribal council in terms of the force of his personality and social standing. A third example arises from the experience of corruption of certain chiefs in the distribution of relief during the 1987 floods (see Udit and McIntosh, 1988) which field workers involved in relief distribution ascribed to the personal standing of the chief. By contrast, no complaints of misappropriation emerged in the case of the weakest of the chiefs, an alcoholic, whose district received relief (interview with Raymond Auerbach and Pingla Udit, November, 1987).

### **Local level co-ordination of services**

Where the chiefs interviewed within the Mpumulanga district were unable to undertake their existing functions adequately, they felt even less able to obtain improvements and/or facilitate the delivery of various services in their areas. While a variety of needs were articulated, including the need for the repair of dipping tanks, school sanitation, spring protection, water reticulation, road repair, a new clinic, improved service of the existing clinic etc, all felt that direct requests to departments or via the regional authority would not bear fruit, as they would get the reply that there was no money available.

Frustration was also expressed, however, at the fact that existing services are delivered quite independently of the tribal authority, the various service workers generally being accountable only to their regional directors within Kwazulu departments.

The fact that service delivery remains largely centralized within Kwazulu departments has been recognised by them as problematic. While inter- and intra-departmental relationships falls outside the scope of this paper, some of the problems of co-ordination at a local level will briefly be touched on.

One department which particularly requires involvement of the community at local level is the Department of Education and Culture. Ninety per cent of Kwazulu schools are 'community schools' which means that the community has to bear part of the responsibility of financing such schools (including school buildings which are subsidized on a rand for rand basis as well as teachers' salaries in certain instances). The difficulties encountered in the administration of such funds has been a regular item in KLA education-related debates. The department has attempted to prevent corruption and to facilitate the raising of money within schools through school committees whose composition (elected parents and school staff) and constitution has recently been defined by statute. While it is not possible to establish whether such difficulties have persisted on a wide scale, this is suggested in complaints registered in the debate following



the budget vote for the Department of Education and Culture in 1988 which included the fact that school committees are not in a position to control irregularities within schools, a situation ascribed inter alia to low education levels of committee members as well a lack of communication with the department (SM Gumbi, KLAD 45, 1988: 700). VA Makhoba went on to complain that '... the school committees do not know that they represent children,... the public... and government...', suggesting that committees should include government and chiefs' representatives as well as parents (KLAD 45, 1988:702).

The Department of Works is a regular target for complaint in the Kwazulu Legislative Assembly over insufficient control being exercised over departmental employees.<sup>5</sup> An example is the concern Chief C Kaula expressed in 1981 that an elected subcommittee which was meant to work in conjunction with the Department of Works at regional authority level was being bypassed. It could thus not prevent irregularities. This situation, he claimed, '... is encountered in all regional authority areas' (KLAD 22, 1981:518).

The frustration experienced by agricultural officers of the Department of Agriculture and Forestry encounter has been seen to result from a level of isolation from the support of back-up staff and resource constraints (see discussions in Friedman and McIntosh, 1989a). The extent to which these difficulties - as well the responsibility of these officers to central on-line departmental channels rather than local bodies - prevents coordination, needs to be established. Certainly, it was claimed in 1986 that:

...there is no cooperation between them (agricultural officers) and the community. And it is not their fault ... when the officer is introduced to the chief, the chief will accept and welcome him. But that is the end of the story. The chief will not know whether anything is being done by the officer, the officer also submits no reports to the chief, and all their efforts are in vain. Would it not be a good idea if the department had people to liaise between the chief and the agricultural officer after the officer has been welcomed, so that these liaison officers can report to the chief who in turn will deliver those reports to the office of the extension officer (KLAD 42, 1986:758).

The Minister of Agriculture's reply was that:

...I am pleased to learn about the activities of my extension officers in the rural districts because here at head office we are not aware of what is happening. Therefore I see my colleagues as the eyes and ears of the Department of Agriculture... problems should be dealt with at the level of the chief by way of reporting... misconduct to the Regional Directors, until the matter reaches us here (KLAD 42, 1986: 758).

As far as the Department of Health and Welfare is concerned it was recognised

in 1985 that problems of ensuring that clinics provide an effective service existed (also cited in interview, magistrate of Mpumalanga, August, 1989). The Minister mooted the idea for clinic committees to 'know that the clinics are working properly. It is only in that way we can obviate the problems of clinics closing at 10 o'clock in the morning ...', in response to criticisms of insufficient control over clinics by the Department (KLAD, 38, 1985:812).

Corruption by Department of Justice officials in the payment of pensions at pay-out points has been a source of ongoing concern both in the KLAD debates and the media. However, the previous mandatory use of ndunas to accompany pensioners to pay-out points to assist them was abolished in 1986. Procedural mechanisms were promulgated instead, as a result of recommendations from the Natrass Commission (established to make recommendations for obviating corruption in the administration of pension payouts).

The absence of appropriate local structures is not the only problem of service delivery by Kwazulu government departments. While the centralization and vertical structuring of departments may have been the inevitable result of the weakness of tribal authorities and their inability to incorporate some of these functions in Kwazulu, it is also true that this type of centralization has prevented the possibility of the upgrading of tribal authorities. This is because resources and skills which are made available by the Kwazulu government generally bypass local administrations. This raises the question of whether the upgrading of existing tribal authorities is possible.

Traditionally, co-ordination of activities of departmental employees vested with the district commissioner/magistrate, formerly within the Department of Bantu/Native Affairs and presently within the Kwazulu Department of Justice. The magistrate has judicial and administrative powers over tribal authorities as well as powers seconded from the Kwazulu ministries to supervise the activities of employees of other departments. While seconded powers still apply to departments which lack sufficiently senior staff at regional level, in practice the ability of the magistrate to effectively co-ordinate activities within districts appears to have diminished.

Two major blockages emerge from interviews conducted with the present and former magistrate of the Mpumalanga district. On the one hand, it would appear that the Kwazulu Secretary of Justice favoured the prioritizing of training and administrative functions in favour of co-ordination through invoking secondment powers. On the other, the escalation of tasks within Kwazulu districts places magistrates in a situation in which crisis management effectively proscribes co-ordination. As expressed by the former magistrate of Mpumalanga:

...we are meant to act as agent for other departments and address

a whole range of concerns of the tribal authority. However, in practice we spend most of our time simply keeping an eye on finances and attempting to prevent corruption. Large amounts of money are involved nowadays in pension payouts, for example, and theft of government monies is rife (interview, Pietermaritzburg, 04.09.89).

### **Local Administration and developmental priorities**

Given the limited capacity of the magistrate to provide effective co-ordination and the frustration of tribal authorities, it is significant that all authorities visited within Mpumalanga see development committees as appropriate mechanisms for facilitating the local co-ordination of services and for purposes of raising funds from and through non-government sources. When asked why this function could not be undertaken by existing office bearers within tribal authority, replies included;

- the fact that chiefs and ndunas do not always have time to get involved in other things,
- the fact that some chiefs and ndunas have no direct interest in various activities,
- and the fact that educated people who are not members of the tribal authority need to be used.

With regard to the composition of development committees, all agreed that it was important for local Kwazulu employees to be on such committees, as a means of enabling the exchange of information and co-ordination. However, the perception existed that ensuring the presence of these people was difficult because whether they attended was a matter of personal choice. Personal choice, authorization and the availability of resources was also important in determining whether Kwazulu field officers were likely to act on decisions of development committees. Consequently, while useful liaison and action had been facilitated through the participation of people such as agricultural officers and social workers in development committees, possibilities remained ultimately compromised by the lack of any formal accountability to such committees.

The second major difficulty expressed with regard to development committees was the question of community representation. Chiefs who had some experience with development committees regarded the simple election of office bearers at mass meetings as counter-productive since the people elected had no necessary interest in many of the activities discussed at such meetings. Development committees constituted in this way were known to have disintegrated. Possibilities of interest groups electing representatives with specific portfolios onto development committees was seen to be compromised by the general

absence of such secondary organizations. Only in one of the five areas within Mpumulanga had representatives been elected in this way. The despotic - albeit benevolent - solution had been opted for in one area, where the chief appointed who he considered skilled individuals with an interest in various sectors to the development committee.

It is perhaps not surprising that the election of inappropriate office bearers should occur and that there should be minimal interest in the election of development committees. Where continued neglect of development needs is characteristic of most rural areas in Kwazulu, scepticism about what such elections might achieve can be anticipated. This is especially the case where tribal authorities have a limited developmental role. However, it is noteworthy that similar difficulties are also encountered in the Ndwedwe district (neighbouring Mpumulanga) where development committees are formalized and are known to have provided the mechanism through which significant resources have been channeled in the area (Udit and McIntosh, 1988). As expressed by a member of a non-government organization involved in servicing the area:

One of the first development committees which had acquired experience put in a pipe line but made a mistake by putting standpipes near their houses. All of them were voted out. A new group was elected and they were thrown out because they didn't have expertise (Friedman and McIntosh, 1989:37).

Similar perceptions are expressed by the ex magistrate of Mpumulanga regarding the significance of elections (as against inherited appointments) within community authorities in which the chairman and councillors are elected. He suggests that:

Elections don't necessarily help (in fostering accountability). 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, these members were thrown out through the (dishonest) electioneering of an opposing group on the basis of overcharging for water... Since then, the community has been split in two. I think that it has also contributed to the escalation of violence in the area (Interview, Pietermaritzburg, 04.09.89).

The above suggests a third fundamental constraint to the upgrading of local authorities within rural areas - that is the problem of generating accountable structures. The problem of breaking what Haines and Tapscott (1986) refers to as the 'silence of poverty' might be addressed partly by the delivery of resources which could make electoral processes meaningful. However, the recognition that black rural populations are organizationally and economically disadvantaged in lobbying for national development or welfare resources might

suggest that the anticipation of a multiplicity of organized interest groups which could lay the foundations for representative development committees could well be misconceived. As expressed by one of the more prominent chiefs in the area:

People are used to having committees appointed for them by the chief. This is consistent with the way ndunas and councillors are selected and appointed... (Democratization) would be a slow process because of the absence of a democratic culture and the fact that people are used to having the chief do things for them ... (Chief Maphumulo, interview, 25.08.89).

The question of the extent to which existing traditional leaders would be prepared to tolerate formal authority being accorded development committees independently of the tribal authority is, perhaps, the most crucial for the future. While it has been seen that de facto powers of traditional leaders are more limited than is commonly assumed, it has also been recognised that such powers are often misused for personal benefit. (Daphne, 1982; Haines and Tapscott, 1986; Maré and Hamilton, 1987; Udit and McIntosh, 1988; Zulu, nd). However, the idea that chiefs may become wealthy through such practices would seem to be contradicted by the various complaints about chiefs' stipends in the KLA debates (above) as well as the author's visits to a number of extremely modest chiefs' homesteads.

The likely acceptability of alternative power structures is compromised by evidence that at least some chiefs are threatened by influential people in their areas who are not members of the tribal authority. The chiefs interviewed, often distinguished between 'progressive' chiefs, prepared to work and draw influential people (whether teachers, nurses, etc) into local affairs and 'traditional' chiefs less willing to delegate authority. Dlamini also notes the comments of educated people in his survey that uneducated chiefs are biased in their decisions against educated people because it is important for them to demonstrate their authority over such people (Dlamini, 1988:152). Dlamini's observations are supported by the criticism that traders - who play a significant role within rural communities as post-masters and money lenders - and 'educated people' receive from chiefs in the KLA.

A motion for freehold rights being attached to trading sites was turned down in 1981. Sentiments expressed during the debate included the belief that traders may be able to obtain undue powers through freehold rights in trading sites. The fact that such rights would provide security for raising loans was regarded as less important than the fact that:

...if a person owns a private farm the chief has no right to give that person any instructions (and that) the chief... or the tribe will be unable to eject this person if he behaves in an unsatisfactory manner (Chief Gumede, KLAD 22, 1981:623).

The potential loss of control over traders was considered important by Chief Biyela in this debate who claimed that:

...we know that these people who have business sites are doing things on their own without taking other people's feelings into account. For instance, if a chief calls a mass meeting in the tribal area, these people do not bother to attend... some of them even say, 'look at those poor people, they are having a meeting there...' (KLAD 22, 1981:630).

Likewise Chief Xolo complained in 1982 that:

Whenever members of the community come to see some of our chiefs who are not well dressed, who do not own motor vehicles and who are illiterate some of them are inclined to look down upon us... I want to ask members of the community not to look down upon us because we happen to be illiterate... I am now directing this request to our educated people... (KLAD 26, 1982:360).

Similar concerns are expressed by Chief Mazibuko about the inability of chiefs to force sections of the population to come to meetings:

...some may be educated, some may fall under a religious sect... does the chief have enough power to punish these people? (KLAD 38, 1985:871).

Where low education levels and a lack of knowledge about procedure limit the capacity of chiefs to fully exercise limited *de jure* powers, it is understandable that development committees with some independent decision-making powers would be seen by some chiefs as a potential threat. Indeed, the potential loss of pecuniary benefits and authority is how the obstructionist role that tribal authorities have often been accused of in project implementation should, and has been understood. In this sense the recognition of the need for the ultimate democratization of tribal structures by Chief Maphumulo could be regarded as fairly unusual. As he himself concedes:

...some chiefs and councillors do not favour development committees because often the people who are elected, particularly the educated ones, are against the institution of chieftainship. The chiefs... feel threatened by such people and, in some cases, justifiably. They should be aware that we are serving our people (Chief Maphumulo, interview, 25/08/89).

At the same time, part of the recognition of the importance of development committees for some chiefs is the perception that it provides the mechanism through which non-government funds may be raised for development (Chief Mduli, Maphumulo and Mlaba interviews).

### **Local versus centralist loyalties**

It has been suggested that at least part of the reason why little attempt to upgrade and increase the autonomy of tribal authorities lies in the inherent difficulties involved in such an exercise and existing inefficiencies of these bodies. However, it is equally plausible to argue that resistance to allowing greater local autonomy reflects a political objective of the centre and of Inkatha, the ruling party within Kwazulu, in particular. In this regard, it is noteworthy that stipends of tribal chiefs and community authority chairmen have remained extremely low (R269 per month) and that the Chief Minister has consistently resisted appeals for an increase of the stipend. By contrast, the salaries of members of the KLA started off at relatively high levels and have been consistently increased since the constitution of the Assembly. What this means in practice is that chiefs have been able to obtain a livelihood through official work if they become KLA members, as elected representatives within their constituencies or through election by the regional authority. A significant incentive thus exists to become KLA members and not to compromise their positions as such. While attempts to abolish opposition parties have been prevented by the South African Government (Maré and Hamilton, 1987:87), opposition parties have ceased to exist within Kwazulu since the 1970s. Moreover, the selection of Kwazulu Legislative Assembly candidates occurs through the Inkatha Central Committee. Since low polls and the intimidation of candidates and voters have characterized elections for the Legislative Assembly (Maré and Hamilton, 1987:84-87), disloyalty to Inkatha - and Ulundi - has the potential to prevent the possibility of retaining Kwazulu Legislative Assembly representation.

The question of central-local loyalties has become all the more important in the light of the political challenge to Inkatha in recent years and its use of certain chiefs for recruitment and the reported involvement of others in violence in the broader Pietermaritzburg area. The application of the term 'warlords' to certain chiefs in the media and the assassination and 'exile' of others to neighbouring areas at different times bears testimony to the politicization of the institution of chieftainship and the fact that the other side of the coin of being forced from a position of weakness to seek local consensus, is recourse to naked violence. Indeed, the reason for disaffection from Inkatha by those chiefs sympathetic to Contralesa was suggested as including the claim that political obligations to Inkatha undermined the chief's traditional role as impartial arbiter in disputes.

In summary, the achievement of participation in the sense described in the introduction, would assume that the diverse interests of various sectors of the population within black rural areas would not only be articulated organizationally, but would have the power to influence and take some control over political

and developmentally-related decisions at a local level. The absence of a broad range of such 'empowered' interest groups within rural communities leaves tribal authorities existing within a largely institutional vacuum. Under these conditions, and as has been suggested by our observations that elected systems as well as various development committee models face problems similar to tribal authorities in sustaining accountability and efficiency, the limits to participation are structural in nature. Consequently, participation initiatives are faced with the dilemma of attempting to achieve what they can within the limits of the existing structure of power or of actively seeking to influence that structure from below. This is recognised implicitly by NGOs in the region in their comments that attempts 'to encourage the formation of democratic community organizations capable of lobbying and negotiating with government on their own account... has proved most difficult...' (Friedman and McIntosh, 1989a:512). As far as existing tribal authorities are concerned this means that their lack of efficiency and inadequate legitimacy may not be an insufficient basis for their elimination and replacement by alternative structures. Where local organizations are not in a position to shape such alternatives, there is always the danger that no matter what the constitutional visions outside policy makers may have in formulating alternatives, these 'alternatives' may end up replicating the tribal authorities which have been replaced. This means, in practice, that successes in introducing alternatives to tribal authorities are likely to be possible only in areas where powerful local organizations have emerged as a result of development intervention or external sponsorship. Where tribal authorities provide a mechanism for fulfilling some of the more basic administrative and control functions within the financial means of poor communities, one would expect such institutions to remain influential, as has happened in post-colonial states in spite of centralist opposition to chieftaincy and attempts to replace it. This is not to suggest that existing tribal authority can simply be upgraded to effectively fulfill the functions of comprehensive local authorities. The need to secure legitimacy and obtain consent at a local level derives precisely from a variety of weaknesses (eg education levels of office bearers, financial and political weaknesses). Authoritarianism could consequently be expected to result from the strengthening of their powers or, more importantly, the resources at their disposal.

### **Future Directions of Kwazulu in Rural Local Government**

The argument above highlights a contradiction for local government reform. While effective participation and local co-ordination depends on the upgrading of local government, the generation of secondary organizations capable of holding local government to account is partly contingent on more adequate



co-ordination of existing central services. Consequently, local government reform cannot be viewed independently of reforming Kwazulu's central and field services.

Therefore, it is instructive to trace existing initiatives of the Kwazulu government which are pertinent to local government reform. These derive from proposals for land reform currently being promulgated within the Kwazulu Legislative Assembly. The current legislation derives from two reports, the Select Committee on Land Tenure (1975/76) on the one hand and the Buthelezi Commission (1982) on the other. The Select Committee took the view that:

...the traditional system of land tenure is not ideally suited to present demands for an economically viable land use... (and that) a shortage of land, coupled with a lack of security of tenure acts as a brake on the rate of development by discouraging landholders from pursuing methods and practices that could increase productivity and proper conservation... (KLAD 9, 1976:608).

Although accepted by the Legislative Assembly in 1976, the implications of individual title on the land allocation role of chiefs appeared not to have been appreciated by the KLA, including the chiefs present. A subsequent survey of some 54 chiefs indicates significant opposition to freehold title (Marais, 1989:27). However, this as well as the welfare function of traditional holdings were recognised by contradictory recommendations of the Buthelezi Commission (1982) in 1983, which was also accepted by the Legislature. The Economic Development sub-committee report (4.2.3.3) stated that:

...the social security of the people living in the tribal areas... (is) so bound up with the traditional system of land tenure that... attempts at land reform... would be likely to create more hardships and suffering than they would relieve...

The contradictory approaches of both these reports to the question of rural land reform was eventually resolved by the working party on land tenure in Kwazulu set up by cabinet (resolution 182/85). Its compromise solution has been one in which selected areas of land in which commercial cash cropping was extensively undertaken, would be considered by Kwazulu for individual freehold title, otherwise traditional title would remain within rural areas. As far as urban commuter areas within tribal authorities are concerned, forms of individual tenure have been deemed appropriate.

The above proposals for land tenure expose some of the dilemmas faced in dealing with tribal authorities. Because the effect of land privatization is that of undermining the welfare function of rural land within Kwazulu without providing opportunities for displaced people, the market is recognized as an inappropriate mechanism for the allocation of land. Consequently land allocation has necessarily to be undertaken by the local authority which, in the absence

of real alternatives, are tribal or community authorities. The current Land Affairs Bill enables tribal authorities to effectively become owners of the land under their jurisdiction and to administer townships. Moreover, a Development and Services Act has been promulgated to enable government to provide services as agent for the tribal authority. While these pieces of legislation enable a widening of powers of tribal authorities, what such powers will be still has to be legislated. In the light of our comments on the likely tendencies toward increased authoritarianism where mechanisms for enforcing accountability and efficiency do not exist, it is difficult to see such authorities carrying out these (yet to be defined) functions adequately.

### Conclusion

Given the increasing acceptance of a role for chieftaincy within opposition circles and the limits of previous formulations of this institution, it is necessary to begin rethinking the role of chieftaincy and local government in terms of possibilities for participation within rural areas under tribal tenure. It has been suggested that the relative weakness of such communities and the absence of influential popular organizations within most rural localities - like urban-based trades unions and civic associations within urban areas - limits possibilities of meaningful participation resulting from alternatives to existing tribal authorities. At the same time the further empowering of chiefs could well increase their corruption and authoritarianism. Consequently local government options wholly reliant on, or completely independent of chieftaincy do not offer realistic or desirable solutions. While mixed solutions which incorporate both elected council and tribal authority elements may provide a short-term compromise in attempting to build accountability into the extension of local authority activity, long-term prospects for participation are likely to depend on the extent to which the adequate delivery and co-ordination and targeting of existing services are able to contribute to the generation of popular local organizations capable of holding local government to account.

### Notes

1. I am grateful to Dr Malcolm Wallis of the Development Administration Group, University of Birmingham and an anonymous *Transformation* reader for the comments provided to me in previous drafts of this paper. I also acknowledge the financial support of the Anglo American Chairman's Fund.

2. '...the Magistrate of a District reads a declaration confirming the appointment of head of the Tribal Authority. The Cabinet of KwaZulu by virtue of its powers provided by section 2(7) of the Black Administration Act (No. 38 of 1927), taken with its authority derived from the Black States Constitution Act has the right to approve the appointment of the indigenous local leader as head of the Tribal Authority... through these provisions... the indigenous system of local authority is incorporated into the KwaZulu and South African structures' (Marais, 1987:7).

3. Community authorities may also consist of two or more amalgamated indigenous authorities. Provided for in terms of Section 2(1)(ii) of the Black Authorities Act, they have the same powers and functions tribal authorities (Marais, 1989:5).

4. Section 12(1) and 20(1) of the Black Administration Act of 1927 read with section 21 and section 12 of the first schedule of the National States Constitution Act of 1971.

5. See annual appropriation bills for the Department of Works in the KLA debates. These usually include a number of complaints about the lack of control over personnel.

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