

Perspectives on KwaZulu-Natal

Volume Two - Number Four - June 2002

The local government and traditional leadership debate

Solutions to the debate about the relationship between local government structures and traditional authorities need to be worked out on a very local level, according to a newly released book *Traditional Leaders: A KwaZulu-Natal Study 1999 to 2001* published recently by the Independent Projects Trust.

Issues relating to the role and responsibilities of traditional leaders have received much attention since South Africa's first democratic government came to power in 1994 and particularly over the past two years as the country has held a general election and a local government election. So much so that the local government election eventually held in December 2000 was delayed in an attempt to address the concerns of traditional leaders.

While there is an idealised historical model of traditional authorities, the institution of traditional leaders does not remain static and has undergone significant changes. Nevertheless, it incorporates a way of life that is fundamental to African values and cultures and there is evidence that amakhosi are still influential, particularly in rural areas of KwaZulu-Natal.

The history of traditional authorities is useful in attempting to understand a role for the institution today. Many writers and researchers observe that the institution is essentially undemocratic but also point out that the nineteenth century was a period of great flux and change in African societies. The twentieth century saw the Black Administration Act, which gave the colonial and apartheid governments immense powers to appoint traditional leaders and to change their areas of jurisdiction. It is therefore difficult to talk about how these systems work in the present because they have been so distorted. These distortions continued and were magnified under apartheid rule through the Bantu Authorities Act, during which time traditional leaders became "paid servants" of the state which made it difficult for them to resist government policies.

Traditional leaders are recognised in South Africa's Constitution, although there are no roles and responsibilities clearly defined in this legislation. A discussion document on traditional leaders and a white paper on local government both produced by the government have also attempted to reach some clarity on the role of ubukhosi. An Act passed originally in the former KwaZulu self-governing territory legislated the role, functions and remuneration of traditional leaders in KwaZulu. It has been the subject of a constitutional court challenge and found to be not inconsistent with the national Constitution. It is therefore recognised in the province of KwaZulu-Natal, although certain amendments have been made in recent years. Attempts in KwaZulu-Natal to draft a provincial Constitution also stalled on the constitutionality of the role of traditional leaders.

Perspectives on KwaZulu-Natal was published by Profile KwaZulu-Natal cc in 2001 and 2002. All rights reserved. No editorial material published in Perspectives on KwaZulu-Natal may be reproduced in any form without prior written permission from, and acknowledgement to, Cheryl Goodenough.

Perspectives on KwaZulu-Natal was proofread by Donna Hornby from Absolute Proof.

Copyright Profile KwaZulu-Natal cc, 2001 2002

Ambiguity as to the precise role that traditional leaders should play in local government resulted in the intense discussions and politicking around the issue in the run-up to the municipal election, which was held on December 5, 2000.

As part of the process leading to these elections, local government was restructured and boundaries of councils were redrawn. The process was not without controversy and was resisted by many traditional leaders from the start. Traditional authorities complained that public hearings organised by the Municipal Demarcation Board were poorly advertised and that their submissions were ignored. The Board counters that some traditional leaders simply refused to discuss matters of demarcation until the question of functions and powers had been resolved.

However, such debates around demarcation and the legitimacy of traditional leaders may seem largely irrelevant in rural areas where many traditional leaders have been accepted, out of respect and sometimes out of fear, as the authority on issues of development. Local government is usually regarded as closest to the people and therefore most capable of negotiating development via representatives who are elected and accountable to the people. This usurps the role that many traditional leaders would see as theirs. As a result of these tensions and difficulties development, which is particularly vital in rural areas, often falters.

Development is often dependent on the personality and initiative of an individual leader in an area - whether that person is a traditional leader, chairperson of the development committee or a councillor. In the two areas where the Independent Projects Trust has conducted intensive research - Khula Village and Nzimakwe Traditional Authority - individuals who are not fiercely aligned to specific political parties spearhead development. There are also areas where individuals are connected with centres of power in various hierarchies and are able to access resources through these connections. Nevertheless, service delivery is ultimately dependent on the initiative of the individual.

A debate that is often linked to development issues, is concerned with a particularly sensitive matter for amakhosi: The issue of land. Many amakhosi consider the control of land to be a primary responsibility. Even if traditional leaders are unable to perform a number of other roles with which they are currently concerned, the allocation of land is a central responsibility that most amakhosi are determined to keep.

Another function that traditional leaders perform which is of significant importance is concerned with the operation of customary courts. Such courts are usually located next to or near the house of the local inkosi. The procedure followed by the courts is customary procedure, which is generally regarded as simple, informal and flexible. This has resulted in many considering customary courts to offer an ideal mechanism for dispute resolution that could be duplicated elsewhere. However, others argue that customary courts are conservative and not able to deliver justice in the modern world.

Another area where ubukhosi is considered by some to be conservative is concerned with issues relating to gender. Questions are raised about traditional leaders and gender, particularly in light of the Bill of Rights in the Constitution, which states that no one may be discriminated against on the basis of gender. The institution of traditional leadership is considered commonly to exclude women from decision-making positions and to limit their participation at traditional gatherings. This is viewed as being inconsistent with provisions of the Constitution. It needs to be noted though that inequality has more to do with rituals of power that reinforce subservience rather than being treated differently, particularly where women themselves claim to have chosen the roles they perform.

It is widely acknowledged that in order to keep pace with a changing environment institutions in
Perspectives on KwaZulu-Natal was published by Profile KwaZulu-Natal cc in 2001 and 2002. All rights reserved. No editorial material published in Perspectives on KwaZulu-Natal may be reproduced in any form without prior written permission from, and acknowledgement to, Cheryl Goodenough.

Perspectives on KwaZulu-Natal was proofread by Donna Hornby from Absolute Proof.

South Africa need to achieve an internal shift in mindset to keep pace with the transformation process. It is also widely accepted that training and exposure to new ideas and thinking are critical if this shift is to take place. Such education and training needs to be seen as part of a culture of life-long learning, rather than a single workshop being the 'solution to a problem'.

Several organisations have been given funding to conduct training programmes with traditional leaders in KwaZulu-Natal and there is a pressing need for these to be evaluated. Traditional leaders also need to be part of the process in which criteria for future training are defined. Future training initiatives must also consist of modules that are designed according to the needs of the traditional leaders and their communities rather than the whim of the delivering organisation. Material should also be provided in the language of the participants to ensure that it can be understood. It is imperative that traditional authorities are consulted throughout the process of the formulation of training material.

Solutions to the debate about the relationship between local government structures and traditional authorities need to be worked out on a very local level. They should involve individuals from both structures holding discussions to determine their respective roles and functions in an effort to develop co-operative and constructive relationships that support rural development. This clarity would also provide the basis for both mutual accountability and training needs assessments.

This solution will by no means be regarded as acceptable by a number of traditional leaders and is likely to be rejected by some municipal officials. However, pragmatic approaches to the delivery of development at a local government level in areas where traditional leaders perform an important function should inform day to day relationships so that rural communities are not negatively affected while awaiting policy resolutions.

The research for Traditional Leaders: A KwaZulu-Natal Study 1999 to 2001 was conducted by the Independent Projects Trust and funded by the Charles Stewart Mott Foundation. The publication was written by Cheryl Goodenough and edited by Donna Hornby.

Perspectives on KwaZulu-Natal was published by Profile KwaZulu-Natal cc in 2001 and 2002. All rights reserved. No editorial material published in Perspectives on KwaZulu-Natal may be reproduced in any form without prior written permission from, and acknowledgement to, Cheryl Goodenough.

Perspectives on KwaZulu-Natal was proofread by Donna Hornby from Absolute Proof.

Copyright Profile KwaZulu-Natal cc, 2001 2002