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Mistaking form for substance

Reflections on the key dynamics of pre-colonial polities and their implications for the role of chiefs in contemporary South Africa

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The question of how best to accommodate traditional leadership within a framework created by a democratic constitution dogged South Africa's negotiation process in the early 1990s and has cast a shadow over our society ever since (Ntsebeza, 2006; 2008). Part of the difficulty is that the Constitution prescribed that traditional leaders should be recognised, but also stipulated that this endorsement should not impinge on the equality rights clauses inscribed in the Bill of Rights.¹ These debates, as well as the practices and legislation that flowed from them, were all underpinned by assumptions about the nature of traditional authority in pre-colonial times and the ways it was reshaped by conquest and colonial rule.²

This chapter challenges three key assumptions that have bedevilled the discussion of pre-colonial chieftainship. The first of these is that it is possible to comprehend key political dynamics through examining

rules and norms outside of historical processes. The second is that political centralisation was either unilinear, or necessarily a form of progress. And the third is that chiefs were the owners of the land. My key argument in relation to all of these themes is that since conquest, and post-1994, a colonially defined form of chieftainship has been entrenched at the expense of the pre-colonial substance of the institution. This substitution has made the institution far less compatible with a democratic order than might have been the case if pre-colonial practice had informed policy formation and practice.

My focus in this chapter will be limited to the dynamics of chieftainship prior to the formal incorporation of African societies into a colonial system of administration. I don't spell out in any detail processes of transformation in the 20th century – topics I have dealt with elsewhere (Delius, 1996; 2008). As it is, this essay traverses a vast sweep of history and speeds across a variety of political systems, each with its own special features. It plays fast and loose with questions of periodisation and skates over salient forms of change. In short, it will dismay specialists who have laboured long and hard to illuminate dimensions that are poorly lit in this account. But I beg the indulgence of both general readers and experts in the belief that some of the cross-cutting patterns and issues that emerge from a broad focus can make a significant contribution to the debate about traditional leadership in the past and the present.

Some terminological issues first need to be addressed. The term 'traditional leader' is extremely broad but is widely used nowadays. Its appeal is that it has a less colonial ring to it than the term 'chief', which was previously the name commonly given to forms of political leadership in southern African societies. The term 'chief' has the advantage of being somewhat more specific, but it has been deployed, usually by outsiders, in relation to so many different societies across the globe that it carries a multitude of potential meanings. I use it in this paper as an overarching translation of the terms *inkosi*, *kgōši*, *hosi*, *khosi*, which are used in southern Bantu languages and are derived from the common root *kosi* (Landau, 2010b: 397). This term is also used with suffixes that indicate rank and scale. In Sepedi, for example, *košikgolo* refers to a paramount chief or king while *kgošana*

refers to a small or subordinate chief or headman. Exactly which of these forms was used, and by whom, was shaped by struggles over, and perceptions of, power and rank.

Chieftainship: Deeply rooted and responsive

One thing that is clear is that chieftainship was an institution of considerable historical depth within African societies. Core elements probably arrived with the earliest farmers around 300 AD. It seems highly unlikely, as some writers have assumed, that the institution emerged *in situ* out of systems previously organised primarily on the basis of kinship groups (Hammond-Tooke, 1985; Bonner, 1980). Part of what distinguished chiefly forms of rule was the absence of overarching, common kinship. Particular chiefdoms were defined by the recognition of a particular chief. This individual was usually drawn from a dominant or royal lineage.³ Although some of the subjects of chiefs belonged to related lineages, others had no kinship connection at all to the royal group. Some of the chief's subjects were descended from groups who had lived in the area prior to the arrival of the chiefly lineage. Others had arrived later and sought permission to settle in the area. If you start to unpick the composition of particular chiefdoms, for example, as Krige did in the Lowveld in the 1930s, what is revealed is a sometimes bewildering diversity of origins and histories of the subject groups (Krige, 1937). What this complexity reflects is the very high levels of mobility that existed between different chiefly foci. Individuals, families and groups came and went on a considerable scale.

A crucial factor that allowed for high levels of mobility and more broadly shaped the nature of the political system was the availability of land. It is now a clichéd comment on African history, but one that I believe provides important insights, that in pre-colonial Africa there was a relative abundance of land. Population densities were generally sparse. Africa was a relatively under-populated continent and, in many areas, including South Africa, there was more land available than people to work it (Iliffe, 1995; Delius, 2010). Power and wealth

as a result depended on being able to build up large followings. Chiefs needed to attract and retain subjects. Those who could offer material and military security and effective leadership gained followers. But capricious and incompetent rulers lost followers. Leaders who were able to accumulate large numbers of cattle and/or control high value trade goods, including imports of beads, cloth, iron and brass, were able to attract and reward subjects and clients.

The fact that land was relatively easily available made it relatively easy for groups to move between chiefdoms (Iliffe, 1995; Delius, 1983, 2010). The richer seams of evidence that are available for 17th-, 18th- and 19th-century South Africa suggest that there was considerable movement between chiefdoms (Krige, 1937). This process and possibility placed significant restraints on the chiefly abuse of power. But in case we imagine that this process was always or essentially benign, we should recall that the capture and forced incorporation of women and children was an aspect of this competition for followers, which at times became a central theme in politics in the region (Delius, 2010). It would also be wrong to assume that these possibilities entirely prevented chiefs from treating their subjects violently, greedily or unfairly in the short term. It took long periods of time before the checks on abusive rule became effective (Morton, 2017). In some societies, certain strata were locked into servile relationships (Morton, 1994).

The importance of control over people rather than land meant that territorial boundaries were not as sharply defined as in more land-based systems. The perimeter of a political unit was defined by the location of families who recognised the authority of a particular ruler. It was by no means uncommon for the subjects of different rulers to live in intermingled and overlapping settlements (Delius, 1983). Some households recognised and so paid tribute to more than one chief, while others used these rather messy realities to retain effective independence.

An equally significant result of pervasive mobility and fluid boundaries was cultural heterogeneity and adaptation within and between chiefdoms. In some instances, an initially dominant language gave way to another. The population of Bokoni provides a good

example. Over three centuries, the dominant language shifted from being Nguni to Sotho. Among the neighbouring southern Ndebele, a Nguni dialect remained dominant (though not exclusive) from the 17–19th centuries. But these groups become famous for wall art that drew heavily on northern Sotho patterns (Delius, 1989; Delius et al., 2014). Cultural elements were also far from coterminous with political and language boundaries. Even pottery styles, which have often been regarded as key ethnic markers, can cut across linguistic boundaries and take their cue from regional systems of trade and interaction (Delius et al., 2014).

The widely held belief that tribes – consisting of culturally homogenous groups with clear political, social and geographic boundaries – held sway across the land completely fails to capture the realities of chiefly rule and pre-colonial society in South Africa. In fact, the concept of the tribe is rooted in Eurocentric misconceptions and colonial manipulation (Iliffe, 1979; Vail, 1989; Delius, 1989; Landau, 2010a: 1–2; Hamilton & Liebhammer, 2017). It is a major impediment to understanding pre-colonial African societies.

Chiefly control had considerable historical depth and geographical coverage. But it was not as pervasive as many historians and officials have assumed. Part of the blame for this rests with historians who, blinkered by an interest in state formation and the biases in their sources, focused their research on kingdoms and centres of political power. They were less concerned with the areas that lay between states where very much weaker forms of overarching political authority often existed. In these zones, individual homesteads could more or less run their own affairs (Hay, 2014; 2015).

The extent and populations of these areas of autonomy expanded and contracted in relation to levels of insecurity and degrees of access to key resources. The conquest of African kingdoms in the last decades of the 19th century, along with the existence of large areas of land controlled by absentee landlords – especially in the north of the country – also allowed for an accelerated process of dispersal of homesteads. The white officials who constructed the new systems of native administration had to deal with the reality of decentralisation and dispersal. But most remained wedded to the idea that chieftainship

had been the dominant institution prior to colonial rule and should play a central role in the future (Hay, 2014; 2015).

Fission, fusion, succession and transformation

There were a number of recurring political tendencies within chieftainship (Hall, 1987:63–64):

One of these was an ongoing tension between the forces of centralisation, which allow individuals to build up political and economic power and competition for authority by rivals. Thus, through time chiefdoms are constantly fragmenting and reforming as factions gain power, build up strength and subsequently lose control to other groups.

These processes are called fusion and fission. This description captures repetitive processes, but it can also convey a sense of randomness of outcomes. It does not explain the changing substance of the conflicts that fuelled competition and shaped longer-term trajectories of change. In short, while it underscores that chieftainship is a dynamic institution, it is less effective at laying bare the underlying forces at play.

The available evidence suggests that a recurring point of conflict and fission in chiefly political systems was succession to office (Delius, 1983; Comaroff, 1974; Morton, 1994). Rule-based accounts of the institution, which were compiled largely in and after the period of colonial conquest, came to frame the understanding of succession. In this view, clear rules were laid down as to who should become chief. The expectation was that the eldest son of the chief's wife would become chief on the death of his father. There were also a number of subsidiary rules stipulating what should be done if the heir was a minor or if no heir had been born at the death of the chief.

The belief that these rules had determined succession to office in pre-colonial South Africa played a very important part in shaping the nature of chieftainship after African societies had been conquered in the 19th century. Officials and some anthropologists believed

that succession disputes could be properly and effectively dealt with by turning to the rules of succession and genealogies for guidance. Dealing with succession became one of the principal preoccupations of the Department of Native (later Bantu) Affairs. An ethnography section set up in the department in 1925 busied itself with collecting genealogies and determining who were the legitimate heirs – unless one of the contenders was seen as being rebellious and/or uncooperative, in which case a more controllable individual was appointed. In this world, pliability trumped rank or popular legitimacy (Comaroff, 1974; Delius, 1983; 1996).

But the idea that rules determined who succeeded to office in pre-colonial South Africa was fundamentally flawed. As is copiously detailed in almost all collections of oral traditions, succession was as much a flashpoint for conflict in pre-colonial African societies as it was in the 20th century (Ellenberger, 1912; Hunt, 1931; Molema, 1920; Peires, 1981; Soga, 1930; Webb & Wright, 1976; Winter, 1912). At the most extreme, these disputes resulted in violence with the most militarily powerful contender taking office after having defeated his rival or rivals. Defeated contenders often moved away with their followers and established their own settlements and chiefdoms (Comaroff, 1974; Delius, 1983; Morton, 2017).

There are numerous examples of the most genealogically senior contender being defeated by a more junior rival. Some of South Africa's best-known and most celebrated leaders – Tshawe, Shaka, Thulare and Sekhukhune, to name but a few – rose to power in spite of, rather than because of, the formal rules of succession. They became rulers because they commanded popular and/or military support which allowed them to defeat their rivals.

These outcomes were often shaped by the respective popularity of the contenders rather than their relative seniority. Military strength after all depended in part on popular support, as reflected in the number of individuals prepared to fight on your behalf. Historian Jeff Peires (1989) has pointed out that people often supported contenders of relatively low rank against harsh or greedy rivals of higher rank. But it was not only in instances of open conflict between rival contenders that the rules could be overturned. As John

Comaroff (1974) has illustrated, there is ample evidence of the rules being manipulated to replace unpopular rulers. Conversely, there are many instances of individuals who started as regents, but then asserted their own claim to the throne and were succeeded by their own sons.

Councillors often played a crucial role in the process of appointing a new chief, or even in replacing an existing one, and this could be achieved by manipulating genealogies or using the concept of regency (Comaroff, 1974). A chief who had taken office but then fallen out with his councillors and lost the support of his subjects might find that it was argued with increasing force and conviction that he had in fact never been appointed as a chief. It might be asserted that he was no more than a regent who had a caretaker role until a minor heir was of age and should therefore step aside. Issues of biological, rather than sociological, parentage were also raised. An heir might, for example, find that his mother's status as chief wife starts to be questioned – perhaps on the basis that bride wealth payments had not really been concluded. A popular candidate would be able to muster popular support to resist such an interpretation, but an unpopular candidate might find that such assertions gathered force and undermined his claim to office.

As a result, accession to high office was no guarantee of security of tenure. As an informant of Tshidi Barolong observed (Comaroff, 1974: 50): 'Many are born and some are robed with the leopard skin [installed], but few die as chiefs.' Furthermore, particular office holders' rights to rule were under constant review (Comaroff, 1974: 51):

The Tshidi ... have a clearly defined model in relation to the incumbency of a chiefship – it suggests that the rights and duties of an incumbent are not immutably fixed: the chief and his subjects are thought to be in a perpetual transactional process in which the former discharges obligations and, in return, receives the accepted right to influence policy and command people. The degree to which his performance is evaluated as being satisfactory is held to determine his legitimacy, as expressed in the willingness of the Tshidi to execute his decisions.

This is not to suggest that rules of succession had no effect at all. It was very rare – though by no means unknown – for an individual who was not of royal blood to become a chief in an established chiefdom. And being of low rank was clearly an impediment to succession unless the heir apparent was particularly incompetent or unpopular. While commoners often reminded rulers that, ‘*Kgoši ke kgoši ka batho*’ (a chief is a chief by the people), those of royal blood and others could retort, ‘*Kgoši ke kgoši ka madi a bogoši*’ (a chief is a chief by the blood of chieftainship) (Pitje, 1950: 47). But it is clear that the idea that rules determined succession in these societies is a considerable oversimplification of a more complex and interesting reality. The practice of turning to rule books and genealogies to determine succession was a product of colonial administration and conceptions of customary law.⁴ What is remarkable is that such a crude understanding of *bogoši* (chieftainship) and pre-colonial politics has survived the advent of democracy. It has, among other things, loomed large in chiefly appointments and in the deliberations and recommendations of the Nhlapo Commission (2004–2010) and the Commission on Traditional Leadership Disputes and Claims (2011–) (Peires, 2014; Wicomb & De Souza, 2013).

But there is another equally important set of issues about the nature of pre-colonial societies and chieftainship that we need to address. Thus far, I have discussed chieftainship in a way that is timeless and stresses a broad uniformity. This, of course, skates over the issues of diversity and change. While there were broad similarities between African societies, there were also considerable differences of scale, culture and political form. For example, settlements could vary from a handful of people to villages of thousands of inhabitants. In the 19th century, some societies stopped the practice of initiating men and women, while others placed even greater emphasis on it. Political systems fell along a continuum of degrees of centralisation, from isolated clusters of homesteads to overarching kingdoms encompassing entire regions. It is impossible to even attempt to itemise the range of diversity in this context. But one dimension of this process was that certain chiefdoms established their dominance over other chiefdoms. In some instances, this consisted of little more

than recognition of a loose political and ritual superiority, expressed in limited payments of tribute by subordinate chiefdoms. But in some areas, more centralised political control and systematic forms of administration were established (Delius, 1983). There has been a tendency in the literature on South Africa, and African societies more broadly, to see political centralisation as a key indicator of ‘progress’, modernisation and development. This perspective has proved to be deeply tenacious, despite having been subject to a number of telling critiques (Neale, 1985). It tends towards teleology with the nation state representing a crucial navigational point. It also assumes that European history should be the template for evaluating changes in the rest of the world and that models of development derived largely from European experience have universal application (Neale, 1985). Most recently, it has figured in debates about the pre-colonial roots of African poverty (Acemoglu & Robinson, 2010: 21–50).⁵ One of the problems with this approach is that it does not adequately consider the complex and innovative arrangements that have emerged in different African contexts.

In South Africa, for example, the Bokoni settlements that dominated the Mpumalanga escarpment in the 17th and 18th centuries had a relatively decentralised political system. Yet these societies established particularly intensive and innovative forms of agriculture. Equally in the Phalaborwa area, major centres of iron and copper production were established, which were not the product of political centralisation (Delius et al., 2014).

There was not a unilinear pattern of political evolution in which relatively decentralised political systems, with limited economic dynamism, evolved towards more stable, centralised, economically innovative systems. Powerful states expanded and contracted, fractured and fell. In the northern area of South Africa, for example, the Mapungubwe kingdom dominated politics, as well as trade in gold in the Limpopo Valley in the 12th and 13th centuries, but then lost power, allowing more decentralised systems to prevail for several centuries (Hall, 1987: 75–80). From the 17th century, trade-important new kingdoms emerged in the region, with the Venda and Pedi kingdoms providing particularly significant examples. But the power

of both polities fluctuated, and in the Pedi case collapsed, for a period in the 1820s. The Ndwandwe state in northern Natal, which seemed set to dominate the region in the 1810s, had entirely disintegrated by the end of the 1820s (Delius, 1983; Delius et al., 2014).

Regiments and raiders

In the late 18th century, there was a significant change in the balance of power in some chiefdoms. One important constraint on the power of rulers had been the absence of standing armies or established police forces. A political leader who wished to use physical force against his critics or enemies depended on being able to mobilise his subjects to take up arms. The gathering of an army could be a slow process and also provided ample opportunity for resistance. Those who disapproved of the chief's actions could simply not arrive when called upon or take their time to respond. As a result, an unpopular or incompetent chief might find that his ability to use physical coercion against his enemies or recalcitrant subjects was profoundly circumscribed. In some societies, regimental systems had developed directly under the control of chiefs, which provided them with some additional coercive capacity. But these regiments were established on a localised basis and were only mobilised at times of particular need. There were still significant possibilities for resisting a call to arms (Delius, 1983).

In the late 18th century in the hinterland of Delagoa Bay, a major upswing in the demand for ivory, and later slaves, stimulated hunting and raiding, which in turn led to innovations in the organisation of regiments. Over time, standing regiments were created, which consisted of concentrations of mobilised men that stayed together for long periods and which fell more directly under the control of rulers. There, regiments also drew on male subjects from a range of chiefdoms, as well as incorporating young captives. Men living in military barracks for many years, and regularly depending on each other in battle, developed a strong sense of common identity and achieved a much higher level of battle readiness and effectiveness than occasional soldiers. Their

training and structures of leadership were also designed to deepen their loyalty to kings and paramounts, rather than local-level leaders (Chewins, 2017; Wright, 2010; Omer-Cooper, 1966).

These rulers, as a result, had relatively high levels of coercive capacity and were far less dependent on cooperation from subordinate rulers or their broader body of subjects than had previously been the case. The Zulu kingdom is the state most commonly associated with this new regimental system and is seen by some as a radical new departure from previous political systems (Omer-Cooper, 1966). But this view ignores the fact that these shifts drew on much deeper and wider processes of change and patterns of innovation in the region over the 100 years and more prior to Shaka's rise to power (Wright, 2010; Delius 2010).

The concentration of power in rulers' hands that resulted from processes of political and economic centralisation diminished the effectiveness of the checks against despotic rule that existed within more devolved polities. These processes also coincided with a period of intensified military activity, when raiding for captives on a large scale by African, Boer and Portuguese forces created a generalised condition of insecurity. In this context, for many, the advantage of being under the protection of a powerful leader outweighed the costs of onerous or capricious rule (Delius et al., 2014; Chewins, 2017; Delius, 2010).

In troubled times, restless subjects had to weigh the ease of mobility that came with a relative abundance of land against the vulnerability that went with living in isolated settlements with limited military capacity. The fate of the prosperous, populous and innovative Bokoni settlements in the 1820s provides a telling illustration of potential risks. With a decentralised political and military system and a focus on production rather than war and extraction, these settlements suffered massive defeats at the hands of the regiments of Ndwandwe, Ndebele and other raiding states, which collided with the societies of the Mpumalanga escarpment. Their attackers carried off vast numbers of women, children and cattle. The Koni settlements never recovered from these hammer blows and the stone-walled homesteads and terraced fields that had dominated the region for

hundreds of years thenceforth stood empty (Delius et al., 2014). The destruction of the highly productive and innovative Bokoni system by relatively militarised raiding states, and the triumph of extraction over production, is hard, for this writer at least, to characterise as progress!

As noted above, the power of the rulers of the most centralised states also waxed, waned and collapsed. In consequence, the tendency to assume, for example, that the high point of Shaka's rule of the Zulu state represents the norm within that society is more than a little displaced – especially given the fact that he was murdered in office, as was his brother Dingane. These events rather show that the processes of political competition for office were neither constrained by rules of succession nor subdued in the Zulu kingdom. Some depictions of the Zulu state also tend to exaggerate the extent to which the new political and military system displaced previous patterns, in which political power was contested but to a significant extent located in the hands of subordinate chiefdoms in polities. While the Shakan system certainly modified this underlying system, it did not replace it; in the decades that followed Shaka's death, the power of constituent chiefdoms of the kingdoms was strongly reasserted (Guy, 1979).

The power of kings or paramounts in relation to subordinate chiefdoms was in a constant state of flux, with the centripetal forces in tension with centrifugal ones. The competence, popularity and age of an incumbent could impact on the extent of his power and the same was true of the strength of subordinate rulers. Uneven patterns of drought also played their part in the distribution of power, as did the location of resources and the direction of trade routes. The relationships between different levels of leadership were dynamic and variable, as was the relationship between rulers and subjects. In the Pedi kingdom, for example, in theory all the chiefdoms within the kingdom were equally subordinate to the king. In reality, at times of weakness, the king was little more than first among equals with very tenuous overall control. Even when the centre was relatively strong, powerful chiefdoms acted as regional foci of power that mediated and profited from flows of labour and produce to the king (Delius, 1983).

Consultation rules

These dangers and challenges helped to ensure that processes of consultation to establish the views of both royals and commoners, and to garner support for potentially divisive initiatives, were a fundamental part of political systems. The more fundamental and divisive the issue, the more in-depth these processes of consultation were likely to be. The extent to which rulers consulted with followers was no doubt affected by how secure they felt in their hold on power. But very few indeed would have taken potentially divisive and unpopular decisions without in-depth processes of consultation (Delius, 1983).

Chiefs also did not act alone. They were advised by councillors, who were men highly regarded by their peers, drawn both from the ruling lineage and from subordinate groups in the chiefdom. The influence of these councillors varied. A young man who had recently assumed office could easily be dominated by his councillors. An older, more established chief often exercised considerable power over his councillors and could remove those who he fell out with – an accusation of witchcraft being one method. Councillors kept chiefs informed of popular opinion on the key issues of the day and chiefs rarely acted without seeking their advice. On particularly contentious and important issues, the process of consultation went even further. In many chiefdoms, gatherings of all the adult men in the community were held from time to time. These were partly used to inform the community of important developments, but they also provided subjects an opportunity to talk back to their rulers and sometimes even to force them to change their policies. These public meetings are particularly well described for the Sotho Tswana chiefdoms, but they also occurred in Nguni communities. In the Pedi kingdom (Delius, 1983; 57–58):

Meetings of various degrees of exclusivity also played a key role in the political processes within both the paramountcy and subordinate chiefdoms ... the historical evidence is that participation in these meetings was fluid and incident-specific.

A broad distinction can nevertheless be made between meetings in the *lapa* (courtyard) of the chief, and *pitšo*. The former typically comprised the ruler and his closest aides, but also clients possessed of special skills and information. These meetings could be broadened to include a wider set of royals and even all the heads of subordinate *kgoro*, and they played a central role in the formulation of policy and the administration of the polity.

The still more broadly based *pitšo* were attended by all the initiated men of the chiefdom and, in the case of the paramountcy, surrounding groups. Major and contentious issues were discussed in this forum. This allowed the weight of popular opinion to be brought to bear on the royals. The paramountcy was able to gauge the strength of and divisions within popular feeling and to moderate or even reverse policy in its light. My book (Delius, 1983) provides a number of important examples of the nature and impact of popular consultation, which show that *pitšo* were called when important decisions had to be made, including vital choices about whether or not to go to war (Delius, 1983; 57–58, 121, 241).

After 1652, imperial power and colonial expansion created additional change and contestation. From early on in the Cape Colony, KhoiSan communities found themselves under new pressures and were subordinated and dispossessed. But when pastoralist Trekboers encountered Bantu mixed farming communities in the Eastern Cape, they proved much harder to displace. The establishment of British control at the Cape after 1895 helped swing the balance of power against African societies in the longer term. British control and restructuring of economic and administrative systems – including the abolition of slavery in 1834 – led some groups of Boers to trek northwards. From the 1830s, a protracted struggle over land and labour took place in the interior, resulting in the foundation of independent Boer republics. Conflicts were largely fuelled by settlers' demands for additional land and labour for their expansive system of farming. The discovery first of diamonds and later gold in the interiors exacerbated these conflicts, and contributed to the pressure

on African polities. In the main, this mounting threat contributed to processes of centralisation and militarisation of African polities. In an increasingly dangerous world, the protection of a powerful ruler was appealing – although some groups saw colonial power as offering the best security in the long term. But colonial pressures also fuelled fission and division in some instances.

The long process of colonial conquest of African polities was substantially complete by the 1880s, largely as a result of the new phase of British imperial expansion in response to the mineral discoveries. It was concluded by the end of the 19th century and allowed for significant shifts of power within African polities. Especially in the north of the country, centrifugal forces reasserted themselves. Relative peace, inadequate reserves, relatively sparse settlement by whites and large holdings by absentee landlords allowed for a considerable dispersal of homesteads.

Many Africans preferred to live on land owned by the state or absentee landlords, where taxes were lower than in the reserves where, if they paid rent, it was in cash rather than labour and where existing forms of social control and production could be maintained. Others moved from chief to chief or farm to farm in an attempt to better their living conditions (Harries, 1989: 93).

This process, along with the initially very limited recognition of chiefly power by the colonial state, undermined chiefly authority and further enhanced the autonomy of homesteads in many areas. It was only with the systematic and pervasive reassertion of chiefly power as a result of the Bantu Authorities Act of 1951, and the mass eviction of African families from white-owned land in the 1950s, that chiefly control was revived (Delius, 1996; Hay, 2014; 2015).

Land rights and chiefs

One particularly important strand in the colonial and post-1994 debates is the nature and extent of the power chiefs exercised over land in the pre-colonial period. Once the military threat posed by independent chiefs was snuffed out, colonial officials were prone to

exaggerate the power of chiefs in earlier decades – often drawing on the Zulu kingdom under Shaka as their key template. This rendition of all-powerful chiefs was not initially because they had any intention of restoring chiefly power. Quite the reverse: its appeal lay in the fact that colonial rulers regarded themselves as the heirs of chiefly power and thus welcomed inflated versions of their power. Especially attractive was the idea that chiefs held ultimate authority over land, and that with the coming of colonial conquest, this control had legitimately been transferred to the colonial state (Chanock, 2001).

The description and interpretation of rights in land within African communities was also influenced by a powerful strand of Social Darwinism in British 19th-century official and legal thinking, which saw indigenous communities as being at a lower level of social evolution. According to this view, private property was the mark of civilisation, while less evolved societies were believed to have weak communal rights. The presumed absence of more ‘advanced’ individual rights of ownership within African societies also provided a convenient justification for seizing the land of colonised peoples (Chanock, 1991; 1996).

These perspectives led towards an exaggeration of chiefly power, especially over land, and to an understatement of the rights of their subjects and the occupants and users of the land. The 1883 Native Laws Commission (40), for example, concluded:

the land occupied by a tribe is regarded theoretically as the property of the paramount chief; in relation to the tribe he is the trustee holding it for the people who use it in subordination to him on communistic principles (Cape of Good Hope, 1883).

This conclusion represented a very selective reading of the already partial evidence at its disposal, but it has often played an influential part in debates over whether or not chiefs were the owners and/or trustees of the land in pre-colonial South Africa.

As noted above, the relatively easy availability of land in pre-colonial Africa placed checks on the power of chiefs. But land was nonetheless a vital resource for communities whose economies depended on

various combinations of farming, gathering, hunting and trading. The system of land holding in these societies is often described as a system of communal tenure. This characterisation stemmed in part from the idea that land was held within these communities on a communistic or communal basis. A corollary of this view was that chiefs were owners of the land and/or held it as trustees for their subjects. But these characterisations are misleading and partly reflect the difficulties experienced by outsiders in understanding or naming African systems (Chanock, 2001). Failures of cultural translation resulted in the use of inappropriate comparison with terminology often derived from European rather than African history. While this terminology has endured over time, a much fuller picture of systems of land tenure has emerged from both historical and social anthropological research.

The first point to make is that not all African families and small groups that settled in South Africa, particularly in the 19th and early 20th century, accessed land through a chief and within an established system of customary law. There was a lot of mobility in this period due to war, drought and economic changes. Some families, sometimes fleeing war, separated from larger groups, settled on land independently and by, opening it up and establishing their fields and gardens, made it their own. In more established African communities, rights to land came from membership of a localised kinship/residential group and a political unit – usually a chiefdom. When a group settled in a new, unpopulated area, the chief along with his councillors would grant particular areas of land to subordinate leaders, who would in turn allocate land to ward heads, who in turn would allocate areas of land to household heads on which to build and cultivate (Beinart, 2001; Delius, 2008). Plots were normally only given to married men, and men who had more than one wife would allocate each spouse her own field to work. Every married man expected to be given land, although the quantity and quality of land controlled by different households varied significantly.

When households needed additional land, they would approach local leaders to request extra land. Local leaders who required additional land would in turn approach the chief. When new groups entered an area, they had to approach the chief to ask for land.

Once land had been granted, it was usually passed on to the next generation within the same household. As a result, in settled societies most individuals received land not directly from the chief but through inheritance and allocation through households and within localised groups formed around a core of kin. New chieftainships were also as likely to be established over pre-existing populations as over vacant land, and oral traditions suggest that a common practice was to recognise the existing rights of such groups and even to acknowledge their prior relationship to the land in key rituals within chiefdoms (Delius, 1983).

Grazing land which formed the bulk of the areas of most chiefdoms was not as tightly controlled or clearly allocated as farming land. Grazing land was open to all who had livestock and there was no limitation on the number of animals that a household could put out to pasture. Chiefs and lower-level political leaders did, however, play a significant role in establishing the boundaries between grazing and arable land (Delius, 2008).

The historical evidence suggests that once land was allocated to households, it was very unusual for it to be reclaimed by a chief or local leader. Land was normally only taken away from households in the case of individuals being found guilty of witchcraft or as punishment for revolt against the chief.

A chief who denied his subjects additional land or attempted to take away lands already allocated ran the risk that he would quickly lose support and followers. It is thus clear that, while chiefs played a significant part in administering land, there were very real limits on their powers. Hunter (1936: 112–113) made the point in relation to the Pondo: ‘a chief had jurisdiction over people ... [and] over land ... All of this implies political power over lordship (including small economic rights) not ownership in the European sense.’

Schapera is also very clear that chiefs could not be described as owning the land (1970: 196):

Except for the portions reserved for him and his family, on more or less the same basis as everybody else, none of the land is his property: nor can he dispose of it except gratuitously

and to members of his own tribe. All members of the tribe are entitled to use as much of the land as they need; and the tribal authorities must see to it that their claims are gratuitously satisfied.

Hunter's (1936: 113) suggestion that household rights over arable land approached more nearly the European conception of ownership has been taken further by Kerr (1990) in an analysis of customary law. He points out that chiefs' key role in allotting unoccupied land has often been mistaken for ownership, and he challenges the notion that individuals acquired usufruct over arable land, but not ownership (Kerr, 1990: 61–62).

The right to the use and enjoyment of allotted land vests in non-statutory customary law in the individual and not the chief. One must guard against the danger of assuming that a term used to describe a right in one system of law can only be used in another system if all the incidents of the right in the first system are to be found in the second. In customary law, it is necessary to reiterate that the [individual's] right is exclusive; and that it may be enforced against anyone who has taken the possession of the land; that it is inheritable and that it is alienable... it is a right which is 'good against the world', which is the definition of a real right in South African common law.

The formulation of his conclusion has been challenged by other scholars of customary law, but there is general agreement that the strongest rights to arable and residential land in pre-colonial systems were located at the level of the homestead/household (Bennet, 2004: 379).

Conclusion

The key point of this chapter is that in pre-colonial political systems competition for followers was fundamental to the survival and

expansion of polities. Rulers who ignored or went against popular sentiment were likely to lose followers and/or face popular resistance, which often took the form of rallying to the cause of rival contenders to chiefly office. It was not uncommon for ruling chiefs to be deposed and killed by disgruntled rivals and subjects. Chiefdoms rose and fell, some prospered for long periods of time, others flared briefly and died. The subjects of fading centres of power often relocated to find those who could offer better protection and access to richer resources. Boundaries were porous and culture was not static and homogenous, but adaptive and heterogeneous. As a result, the concept of ‘the tribe’ comprehensively fails to capture the essential dynamics of pre-colonial societies. Change had cyclical elements, but was also caught up with and shaped by broader processes of transformation in the region. Colonial conquest and rule did not capture static societies long set in their ways, but incorporated dynamic and changing societies and in (some cases) quite recently established political and social systems.

Colonial rule was not informed by this rich history. Instead, as the threat of revolt receded, it saw chiefs as a useful instrument of control over land, people and labour. In this new system of administration, authority and power were seen as flowing downwards from the Governor General, who in the colonial order doubled as the imagined ‘Supreme Chief’ in the system of native administration. The Supreme Chief was vested with huge powers sometimes loosely justified in terms of the despotic rendition of the Zulu kingdom, but in fact far exceeding the powers of the most dominant African rulers. Issues of succession were not dealt with through the competitive political processes and tests of ability and delivery that were features of the pre-colonial polities. Instead, they were resolved by white officials armed with a simplistic understanding of the rules of succession, poring over genealogies, while bearing in mind which of the candidates for office were most likely to do the government’s bidding.

In the first decades of colonial control, no more than a handful of chiefs received official recognition. This official disinterest meant that many chiefs had to maintain a significant degree of popular respect and support if they wished to survive. The extent to which chiefs remained responsive to the views of their subjects moderated

the corrosive impact of colonial control. But the introduction of the Bantu Authorities Act in the 1950s and the crushing of opposition on the part of migrant workers, rural residents and a handful of chiefs further diminished the pressures on chiefs to be chiefs by the people. Instead, in the main, they became chiefs by virtue of the state (Delius, 1996). The Bantu Administration Department set about defining the boundaries of the newly proclaimed Tribal Authorities in a way designed to freeze once-porous and shifting boundaries. It was an intervention designed to reward those who cooperated with the apartheid state and to punish those who did or had not. African polities were being reshaped into the rule-based, culturally homogenous tribes of colonial imagining and distanced from the dynamic, competitive, fluid and culturally heterogeneous societies that had in fact existed in the years prior to conquest.

The dramatic political transition in the years after 1990 provided an opportunity to fundamentally rethink the nature of chieftainship and its potential role in a constitutional democracy. This was an opportunity that was far from fully exploited, for reasons which are elaborated elsewhere in this edited volume. In practice, the ways in which chiefs have been incorporated into the new South Africa show clear continuities with the colonial conceptions of chieftainship as a top-down, hereditary, rule-based, patriarchal and tribal institution. Ineffectual attempts have been made to tweak the institution through notional elections and rules about the gender composition of tribal councils. But there has been a failure to recognise the existence of a dynamic, competitive, pre-colonial institution in which the idea that a leader was a leader by the people influenced practice. Incompetent, unpopular and corrupt rulers could be blocked (or removed) from office by a wide variety of means. Subjects could make choices about whether or not they wished to be ruled by particular chiefs or indeed by any chief.

Surely in a fledgling democracy, the reality of legitimacy conferred at least in part from below should have been one starting point for defining a postcolonial role for chiefs? Instead, a co-opted institution reconstituted to serve as an instrument of colonial control, and formed by fantasies about primitive and tribal Africa, has served as the primary template for chieftainship in post-colonial South Africa.

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Endnotes

- 1 There is general agreement that pre-colonial political systems were patriarchal and strongly discriminatory in relation to gender. In many respects these tendencies intensified in the colonial period. Court rulings have had some effect in reforming some of the most blatantly

discriminatory aspects of customary law. But a great deal needs to change before women living under chiefly rule and in other rural societies will enjoy equal rights. In my view our current failure to live up to the values imbedded in the Constitution should be at the forefront of any discussion of the recognition and reform of traditional leadership.

- 2 While the debates about the nature of chieftainship in pre-conquest South Africa have intensified since 1994, there was already a considerable body of scholarship relevant to this issue available at the time of the transition to democracy that could have informed the debates more fully. Some of this material is reflected in the references for this chapter.
- 3 The term lineage refers to a group of people defined by descent from a common-named ancestor.
- 4 With the proviso that the individual was acceptable to the colonial state.
- 5 They also, in a somewhat contradictory fashion, point to the existence of centralised states that became too inflexible and extractive as a further cause of Africa's poverty.