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Political rivals could be discovering a way to peace through a growing sense of Zulu nationalism, writes Eddie Koch

New culture of hope in KwaZulu

It may just be that the troubled

people of KwaZulu-Natal will find

their peace not through delicate

diplomacy or a tough approach to

law and order, but because the ebb and flow of two less tangible forces is soothing their land: history and heritage.

- That a Zulu renaissance is flowing through parts of the province, bringing old enemies together in a new exploration of their common traditions, was first suggested to me during a chance meeting with an old colleague recently in Durban:

â\200\234It is unbelievable,â\200\235 said Enoch Mthembu, a young reporter who worked on many of our newspaper's investigations into the causes of KwaZulu-Natal's violence. â\200\234There was a time when I did not tell people I belonged to the Shembe Church. I was ashamed and thought what its followers did was weird and primitive.

â\200\234Now there is a branch of Shembe at Ngoye University. You can hear them beating their drums and they dance around on campus dressed in animal skins. This was unthinkable in our day. We were taught to look down on tribalism. Now many of us are seeing how important it is to link up with our ancestors and history and religion.â\200\235

Mthembu went on to tell, with great pride, about the stabbing spear that his grandfather used in the battle of Isandlwana. It was still leaning against a wall in his parents' home near Empangeni.

And he was spending a lot of time thinking, he said, about the day his grandad was buried in full battle regalia. â\200\234I didn't think of it at the time. But maybe it would have been nice to

keep that leopard skin.â\200\235

Was this a quirky response from a young man who has seen too much violence and is worn down by the

trauma of it all? Or was his

,, zest for an off-beat religion and the history of his ancestors the sign

,~ that a Promethean

Shembe celebration: â\200\230Many of us are seeing how important it is to link up with our religionâ\200\231

Zulu renaissance: Increasingly women are weaving patterns into their baskets that tell the legends of their community

movement is at play in the province, providing its people with the spirit they need to cope with their past?

Mi Hlatshwayo, the worker-poet who became famous in the 1980s for exhorting his comrades on the barricades, answers with an anecdote.

â\200\234I have just come from Hlabisa [near the Umfolozi Game Reserve] where they make beautiful baskets and beads. I bought a drum and a shield there. And I took them home with pride,â\200\235 says Hlatshwayo.

â\200\234There was a time when these things were associated with a particular political perspective and had a

negative meaning. There is more

pride and creativity now as violence has subsided and some cultural freedom has been guaranteed.â\200\235

There are other signs of cultural renewal in the province.

The women weavers of Hlabisa, for example, are beginning to weave beautiful patterns into their beer baskets that tell the legends and lore of their communities. Says Hlatshwayo: â\200\234Craft-workers all over the province are realising that the more authentic their creations are the more interesting they will be to their clients.â\200\235

Township theatre groups in some

PHOTO: RAJESH JANTILAL

parts of the country are blending praise poems and the memories of their elders into their drama. This trend is being encouraged at the Playhouse Theatre in Durban where according to Ari Sitas, poet and dean of arts at the University of Natal a Zulu nationalism can be discerned in its work.

And dance troupes in some of the most remote corners of the province are incorporating old war dances into their repertoire. We've got this cultural group here in Mboza [a village on the Pongola River near the border

with Mozambique], said development worker Clive Poultney.

Its members were into this Sarafina stuff until we told them, Hey, people can watch that crap on TV. People are more likely to be interested in you if you use the dance styles of your Maputaland [the region around Mboza].

Jacob Luvuno, development man-

@) ager for Tourism KwaZulu-Natal,

believes the new mood holds enormous prospects for peace and economic revival in his region.

Just a short while ago we found

| the African National Congress trying

to discredit the Inkatha Freedom Party because its members carried traditional weapons. And the IFP was

f using these weapons to push their

own objectives, Luvuno said.

Now we find places where the youth are talking to traditional leaders about setting up cultural events and starting heritage sites that will form the basis of a new tourism industry in their areas. Both parties are saying Hey! There are new businesses to be had, and are beginning to co-operate around their common culture.

The causes of KwaZulu-Natalism are dispersed and complex. Mthembu believes members of his generation have been given the lead by ANC leaders like

jacuh gama and Jeif Radeke who
Hic}; vp at polivcal nsetings these
ae cxesced in traditional garb ari
shouting â\200\234Bayeteâ\200\235.

Hlatshwayoâ\200\231s organisation, the

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PHOTO HENNER FRANKENFELD

KwaZulu-Natal Arts and Culture
Council, is self-consciously encour-
aging a revival of a-â\200\230non-partisan
Zulu culture. â\200\234In the 1970s and
1980s the cultural heritage of the
Zulus was degraded by politics and
we did not see the goodness of cul-
ture as pure culture,â\200\235 he says.

â\200\234With democracy a new culture is
emerging in which we are all seeing
that tradition is beautiful and neutral
and that we can all identify with it
outside politics.â\200\235

ut as Zulu pride is being

depoliticised, it may also be

creating something new in the
political mood of the province.

Mthembu says the divide between
militant youth and conservative tra-
ditional leaders in KwaZulu-Natal â\200\224
the single most important factor
underlying the sectarian violence of
the 1980s â\200\224 is being bridged as
young people find comfort and value
in the wisdom of their elders.

The peace talks between Inkatha
and the ANC, which some commen-
tators say are heading for a merger
between the one-time rivals, centre
around a growing sense of Zulu
nationalism. One of the symptoms is
that â\200\224 as their colleagues delve into
their common roots â\200\224 white mem-
bers of both parties are increasingly
finding themselves out on a limb.

:slatshwayo is more cautious:
â\200\234Traditional leaders have always
recognised their culture as some-
thing ideal. Now the youth are com-
ing back and there is common room

where meetings and discussions
take place. What happens with that
cisseness, that coming together, is
stil a question.â\200\235

Sitas believes there are still many
tiigments in the new movement. The
shantytévms around Durban, where
the realities of penury and neglect
continue to make life harsh and
brutish, show little signs of healing
through heritage.

â\200\234You cannot eat shards of a rain-
bow at the moment,â\200\235 he says. â\200\234This
thing is still very vague. We must wait
to see how it defines the present.â\200\235

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Hanging judges
to face truth Â©
commission â\200\224

The truth commission will
examine whether judges
â\200\230dished out death sentencesâ\200\231.
to shore up apartheid, writes
Swapna Prabhakaran

OME of South Africaâ\200\231s

judges, including one work-

ing for the Truth and Rec-

onciliation Commission,

will be called before the
commission to defend apartheid-era
decisions to send hundreds of people
to the gallows.

The issue of the death sentence is
likely to be among the thorniest and
most emotive when the truth com-
mission holds hearings in October
into gross human rights violations by
the judiciary.

The commission will also be faced
with the task of examining claims
that some judges routinely dished
out the death sentence to shore up
the apartheid structure â\200\224 particu-
larly in its dying days.

Legal observers argue, however,
that the judgesâ\200\231 hands were tied once
they decided to participate in the
legal system. The law at the time stip-
ulated a mandatory death penalty for
murder if no â\200\234extenuating circum-
stancesâ\200\235 could be found.

The death penalty was suspended
in 1990, as talks between the then
National Party government and the
African National Congress gathered
pace. It was formally scrapped in
1994. Â©

Judge Andrew Wilson, one of three judges now working for the truth commission in assessing amnesty applicants, said this week he could not remember how many death sentences he had imposed on the bench.

â\200\234I think every judge in that time passed the death sentence. One had no choice then. I doubt I would have done it if I had the choice.â\200\235

Wilson recently granted amnesty to-Brian Mitchell â\200\224 the man he had

Judge JMC Smit: Sentenced 17 people to death in three years

sentenced to death for his involve-

ment in the Trust Feeds massacre; Mitchellâ\200\231s death sentence was commuted to a long prison term.

Hanif Valli, the truth commission's legal adviser, says the hearings will not be a witch-hunt. â\200\234They won't be bringing down individual judges. It is rather to get the role of the judiciary in that era.â\200\235 ;

â\200\230Among the submissions the truth commission is expecting is one from human rights activist Paula McBride, who refused to disclose the details of her submission ahead of the truth commission receiving the document.

However, the Mail & Guardian has obtained the draft document from other sources. It shows that the judges who passed death sentences were all white, and 95% of those they sentenced to hang were black. In the ten years before 1985, more than 1 000 people were hanged; only 22 of them were white.

The document draws a close link between the death sentence and the apartheid environment in which judges took their decisions.

Her report names a string of judges who became renowned for handing out the death sentence.

They include Judge Deon van Zyl, now at the high court in Cape Town, who sentenced a man to death after a one-day case in 1988.

Judge van Zyl sentenced Michael Bini Matli to death after he was convicted in one day in the Lichtenburg

Circuit Court for stabbing a woman to death. Matli refused a state defence, did not give evidence in his defence and called no witnesses. In the absence of any other evidence, the court finds there was direct intent to commit murder, Judge van Zyl ruled.

He said this week: It was the most upsetting thing; it was most traumatic. I accepted that I had no choice but to pass the sentence. I had taken an oath.

If there were no extenuating cir-

Judge L le Grange: 16 death sentences in three years

End of the rope: The gallows at Pretoria Central is disused, but not forgotten

hang him and that's the end of it

Swapna Prabhakaran

warders lead them, and they walk on to the platform. Under every rope

stand on these spoors.

PHOTOGRAPH: HENNER FRANKENFELD

I stand by the door and the minute before they go I pray to God

one of them. That is the least I could

man who pulled the lever on there are two black spoors, and they to have mercy on earth and to every about 1 500 people did so with a

clean conscience, because he

They have a white cap on with a

do to a person who has to meet his

knew those he hanged had been sent flap. The moment you put the rope maker to him by a judge.

around his neck they put the strap

The Pretoria funeral company

Chris Barnard, now dead, told over his face. He can still see until Saffas took most of the bodies to

British television in the 1980s that: you put the flap down. Then you pull graveyards a round the capital. The

It didn't bother me because the the lever and they drop.

person was sentenced to death ...

After 13, 14, 15 minutes the

company's director, Kai Von Garnier, said this week that Saffas was

and it's proved beyond reasonable doubt that he was involved in the

doubt and there's no extenuating by a doctor. If he's satisfied of it
We did do it, yes, but it was just a
circumstances then he deserves to death, then the warder puts a rope business contract,
he said.

hang ... I hang him and that is the
end of it.

around the body with a pulley and
they pull him right up to the top and

The government would tender
and everyone could apply for the

Barnard, who plied his trade for I take the rope off and lower him contract. We got the
contract

years at Pretoria Central Prison,

down into a stretcher into a coffin. I

because we were cheaper. The cheap-

described in lurid detail his charges to secure the lid with a hammer and the
iced company always got the
final seconds. I stand right at the nails and they are taken to a grave-tender
and we had the cheapest

back when they come in there,

yard.

prices.

SOPOT OSSSOOSO OSHS HHS OSOOSHSSHSOSOSSSSHSHSHOHOSHS OHH EHOSSLESOO HO OOSSSHSSOOHEOSES
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cumstances, I had to apply the law. To

sentenced 19-year-old Zondo to death

Judges JMC Smit and David

me it was the most difficult thing in five times for his involvement in the Curlewis, who
each condemned over
the world. Acting like God. But on the Amanzimtoti mine attack, but a dozen people
to death, still sit on
other hand, if you decide you can't do let his accomplice who ratted in the bench.

that, then don't become a judge.
He said that, of the nine people he

return for anonymity go free.
Leon was unavailable for comment

Legal observers pointed out this

week that a prisoner given the death

had sentenced to death, only two_ this week. Summing up at the end of penalty could apply for the right to

actually went to the gallows.

the trial, however, he said: â\200\234We have

appeal to the then Appellate Division

Judge Raymond Leon, nowretired, not the smallest hesitation in accept- in Bloemfontein.

Also, a judge could sentenced Andrew Zondo to death in ing the evidence of the accomplice as _ petition the state president for

1986 â\200\224 and two years later, became true and that of the accused as false clemency.

beyond all reasonable doubt ... extending

circumstances are not present

in this case.â\200\235

a supporter of the Society for the

Abolition of the Death Penalty.

The report recounts how Leon sen-

Judge David Curlewis: 14 death

sentences in three years

Top scorers of the death-sentence years

N any scorecard of the death

Opti: the late Judge B

O'Donovan handed down more

death sentences than any of his colleagues.

Ina three-year period he

sent 25 prisoners to be hanged, and

in his career he handed down 39

death sentences. 3

On the other hand, one judge, NM

McArthur, never sent a single con-

wict te the gallows even though in

three cases, the death sentence had

been expected.

The South African Journal on

Human Rights concluded in 1991

that the fairest way of looking at how

individual judges applied the death

penalty was to compare sentencing

(as a percentage) against the number

of cases heard, the numbers of

accused and the number of charges

carrying the death penalty.

They applied this system to the

Transvaal Division judges, looking at

the period before the death penalty

was suspended and found Judge MC

de Klerk was a top scorer, having

handed down the death sentence in

more than 35% of cases he heard.

Others were:

@ Judge WJ Human: 33,3%
@ Judge LTC Harms: 32 %
@ Judge MJ Strydom: 31,8%

Judge Irving Steyn: 13 death sentences in three years

@ Judge L le Grange: 31,3%
@ Judge Irving Steyn: 30,3%
@ Judge B O'Donovan: 29,1%
@ Judge TT Spoelstra: 27,3%

High percentages did not necessarily translate to big numbers of people sentenced, however, and vice versa.

For example, Judge DJ Curlewis sent 14 people to the gallows in a three-year period. But this was only about 9% of the death-penalty cases

Some judges, however, were more inclined to pass the death sentence than attempt to find extenuating circumstances which could save the prisoner's life.

To compound matters, the state-provided defence was often a junior or inexperienced lawyer, who made little or no effort to find out the defendant's circumstances and history, to fill in the blanks behind motive, and support extenuation. Much of the evidence for the defence could also be lost in interpretation.

Civil rights lawyer Brian Currin, the former national director of Lawyers for Human Rights, said this week that the whole judicial system had been flawed. "Some judges went out of their way, sometimes dishonestly, to find extenuating circumstances," he said. "Those who were pro. the death penalty would not spend as much effort."

The National Association of Democratic Lawyers is also preparing a submission to the commission on the judiciary's role, focusing on lawyers' experiences at the hands of the courts under the previous government.

"The legal system was used to legitimise apartheid," said association representative Vincent Saldhana. "They could arrest people, torture them for statements, and then convict them on

the basis of those statements. The
judiciary did not question it.â\200\235