

**KWAZULU NATAL PROVINCIAL LOCAL GOVERNMENT CONFERENCE  
REMARKS BY  
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[KWAZULU NATAL] AND  
UNDUNANKULU KAZULU  
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It gives me great pleasure to present the viewpoint of traditional leadership at this important conference on local government. I am speaking at this conference in my capacity as the Chairperson of the House of Traditional Leaders of KwaZulu Natal as well as the traditional Prime Minister of the Zulu Nation. However, I believe that the viewpoint I am expressing on this occasion has indeed a general value and its merits should be recognised beyond the circle of traditional leadership and related interests. In fact, I wish to state at the outset that the role of traditional leadership in the proper functioning of local government is a matter of interest to anyone in this Province and goes beyond the specific interests of traditional leaders. Especially in this Province, traditional leadership is an essential element in the complex equation which can guarantee the success of local government.

All of you here are aware that as one of the Senior Traditional Leaders in this Province I have been seized with this issue of the institution of the Monarchy and the issue of Traditional Leaders since the time when constitutional negotiations took place at Kempton Park in the early 90s.

Had my pleas for the sorting out of this matter been heeded then we would not have this issue as a hardy annual since then. It gives me great pain that I must still articulate this issue and be expected to justify the existence of an institution such as the Monarchy, an institution so entrenched in the history and culture of the Zulu Nation. For us as Zulu people when you talk about Traditional Leadership you are talking about His Majesty the King and the pillars of his Kingdom, who are more than 200 Traditional Leaders spread throughout his Kingdom.

It amazes me that in this era where we are dreaming about an African Renaissance, that we can allow ourselves to be misunderstood as if we have a definite agenda to eliminate the Monarchy in this Province and its pillars who are Traditional Leaders, who were virtually the government of the people of this Kingdom ever since it was established by King Shaka Ka Senzangakhona. Many of our Kings and Traditional Leaders in this Province fought for freedom and paid dearly to get us where we are today. I am thinking here of our Kings such as King Dingane Ka Senzangakhona, King Mpande Ka Senzangakhona. I am thinking of my own maternal great grandfather King Cetshwayo Ka Mpande. I am thinking of my maternal grandfather King Dinuzulu, who after a spell in exile on the Island of St Helena returned only to be charged a few years later with High Treason, to get a life-sentence and even when released by the first Prime Minister of this country General Louis Botha was exiled to Uitkyk Farm in Middelburg where he died. I am thinking of Inkosi Bambatha of the Zondi clan in Greytown. I am thinking of Inkosi Meseni of the Qwabes.

I am thinking of my own paternal ancestors such as my great grandfather Mnyamana Buthelezi, Prime Minister to King Cetshwayo, and Commander in Chief of all the Zulu forces, during the Anglo-Zulu War. I am thinking of his sons Mntumengana who died at Isandlwana on the 22<sup>nd</sup> of January 1879. I am thinking of my own grandfather Mkhandumba Buthelezi who participated in that battle of Isandlwana. I am thinking of Mkhosana Biyela who was also a victim of that battle and several others too numerous to mention in a speech of this sort.

I am thinking of one of my mentors Inkosi Albert Mvumbi Lutuli, the last President-General of the ANC before it was banned who gave up his chosen career as a teacher at Adams College, to serve his people in Local government as Inkosi of the Amakholwa of Groutville Mission, by doing so emphasizing the importance of the primary role of Amakhosi in the local governing of our communities.

It is quite clear that there cannot be full delivery to our rural communities without the role of the King and his Amakhosi in local government. Do we really want to go down in history as those who tried to rubbish-heap the King and Amakhosi of his Kingdom?



I firmly believe that the entire success of South African democracy depends on how local government performs. If local government fails to achieve its intended constitutional purposes, our still fledgling democracy will receive a very dramatic setback. On the contrary, if local government fulfils its promises, a chain reaction will begin that may finally lead to the implementing of the constitutional scheme. In fact, I believe that local government should be the instrument of delivery of a broad variety of services and government products. If that happens properly and adequately, the role of provinces and indeed the role of central government will be re-qualified, generating throughout the entire institutional system a wave of devolution, decentralisation and autonomy. This is an essential and most desirable development for the future well-being of our institutions.

For instance, I firmly believe that in a proper system of local government it should be the responsibility of cities and municipalities to own, run and administer schools, hospitals and welfare centres. Once this responsibility no longer rests with provinces, provinces will realise that their role lies elsewhere, namely in the development of policies and legislation. In the long-term, provinces should not own, run and administer schools and hospitals, but should rather engage themselves in the development of educational curricula and healthcare policies. When provinces acquire the full measure of the role to which they are entitled under our Constitution, which is not one of administrative implementers, but one of policy making and legislation, then the role of the central government itself will be re-qualified.

At present, all the matters which the Constitution ascribes to provincial competence have been entirely covered by national policies and legislation. I hope that one day this will be reversed and provinces will exercise the power which they do have, to legislate and develop policies on all the functional matters which are listed in Schedule 4 and 5 of the Constitution. However, all this hinges on the capability of government to exercise a large and broad number of delivery and administrative implementation functions and on the willingness of provinces to begin devolving functions of this type to municipalities.

There is no doubt that within our institutional system there is a generalised lack of capacity. As the Minister of Home Affairs, I experience the same problem within my own administration. When confronted with the problem of a lack of capacity, there is a natural inclination to concentrate functions and tasks in the few structures and even the few individuals who have the greatest amount of capacity, resources and skills. Although natural, this reaction is disastrous for the growth of the institutional system and for the strengthening of our democracy, as it prevents the empowerment of a much larger number of structures and individuals.

For instance, in my Department I have begun a reform in terms of which I reverse the tendency to concentrate work in the field of migration control into the hands of a few people and offices at our Pretoria Head Office, who have the capacity to handle it best. I recognised that there is a pool of people and offices with much greater capacity and skills, and therefore I decided that these people and offices should handle no work at all, but should rather utilise their skills and capacity to monitor how other structures perform that work and to assist them in building capacity. Therefore, I devolved the entire exercise of migration control functions to our regional offices, and transformed those individuals and offices which were previously doing most of the work into agents of empowerment, capacity growth and transformation, giving them the task of assisting our Regional Directors, supervising their work and empowering them whenever and however possible.

I am mentioning this element of personal experience because I firmly believe that the same issues arise in respect of the relationship between local and provincial government. There is no doubt that, at present, the offices of provincial government have much greater capacity and skill in handling a broad variety of administrative functions, ranging from schools to hospitals, and from environmental services to welfare. There is no doubt that the incipient new system of municipal government has no established capacity. Therefore, there is a natural tendency to rely on provinces to get the job done. I urge you to resist this natural temptation and, from the outset of the new system of municipal government, to walk the right and courageous road of empowering municipalities and divesting provincial administrative functions to devolve them to municipalities. This road may create some initial setbacks, but will pay huge long-term dividends.

I mention this perspective of empowerment of lower structures and capacity building at the closest point of



delivery because this perspective is also very relevant to the issue of traditional leadership. It is most unfortunate that the new system of local government, as it emerged from the December 2000 elections, was born out of an unresolved conflict between the powers and functions of municipalities and those of traditional authorities. Especially in our Province, traditional authorities are statutory bodies which in terms of legislation have the power and the duty to exercise a broad variety of local government functions, which coincide with those ascribed by the Constitution to municipalities. It is just not possible, wise and realistic to draw the conclusion that the powers and functions of traditional authorities have implicitly been repealed by the coming into force of the Constitution and by the implementation of the new system of municipal government.

Laws may be implicitly repealed, but one cannot implicitly repeal a way of life and an entire model of societal organisation. Traditional authorities are at the core of a complex model of societal organisation which determines the life of millions of people in this Province. Traditional communities rely on the functions of traditional authorities to carry out and implement our indigenous and customary law. As a creature of statute, municipalities cannot recognise and apply indigenous and customary law, but must operate by the rules of statutory law and regulations.

The present situation is extremely explosive and it is most unfortunate that our Government has opted for the easiest but most dangerous option, which is that of doing nothing about the present situation and letting it unfold in the hope that traditional authorities may disappear of their own accord. During several years of discussions in Cabinet, even at a time when some of my Cabinet Colleagues were stubbornly denying that a conflict existed between the powers and functions of municipalities and those of traditional authorities, which conflict has now finally been widely recognised, I used to pose a very simple question which is yet to find an answer. I enquired whether, as a resident of Buthelezi Traditional Authority Area, I should pay my dog licence for my dog, "Bullet", to the municipality or to the Buthelezi Traditional Authority. Both entities are claiming the same tax. However, the two entities are applying different systems of law on matters relating to my dog, particularly if my dog were to become migrant.

In terms of the law of the municipalities, if my dog causes damage to someone else's property, he can be apprehended by the municipality and taken to a pound, from which I could release him by paying a small fee to the municipality. However, in terms of indigenous and customary law, under the same circumstances the dog could be apprehended by the person damaged by the dog's activity and brought to the traditional authority, where the dog would be kept until I pay the person who suffered the damage caused by its action. Under indigenous and customary law, the damaged person would be repaid, while through the actions of the municipality, the damaged person would need to file an action in law to receive any money from me. The example of these two entities operating on the basis of two different systems of law in respect of the same subject matter could be multiplied a thousand times, and applied in relation to matters which are far less trivial than the antics of my dog "Bullet". They range from development to zoning, and from environmental protection to land administration.

Traditional authorities and municipalities have held several meetings in this Province in which they have agreed to find ways and means for them to cooperate in the exercise of their respective functions. The good spirit and the goodwill developed in this Province will go a long way towards solving the many problems presently being experienced and which will continue to be experienced in the future. However, they cannot replace a solution to this thorny issue which the central government has created, and which it has thus far refused to address, in spite of many promises made. You all know that in May 2000 the President himself formally promised that the powers and functions of traditional authorities would be protected and, if in any way eroded since 1994, they would be reinstated and reaffirmed.

This undertaking was reiterated in a formal agreement signed between a committee of Ministers headed by Deputy President Zuma and delegated by Cabinet, and a delegation representing the Coalition of Traditional Leaders in a meeting held on November 30, 2000, on the eve of the Local Government Elections. In that agreement it was stated that Chapter 7 and 12 of the Constitution would be amended to ensure that traditional authorities may exercise a broad range of local government powers. However, to this day, no step has been taken in that direction, while the consolidation of the system of municipal government has proceeded on just the opposite basis. The recently published White Paper on Traditional Leadership proceeds from the premises that the local government powers and functions of traditional authorities have either been obliterated or will fade away over time as a vestige of antiquity.



This situation is not only unfair and morally repugnant, but is indeed a cause for great concern. Traditional authorities have an enormous role to play in effective governance at the local level. They should be provided with increased capacity to perform a broad range of functions. I do not want to enter into discussions on the mechanisms through which this may take place, for example whether this should happen through delegation from municipalities or by means of a specific entitlement. However it happens, what is important is that there is a political decision to make it happen. At present the disparity in capacity between municipalities and traditional authorities is growing by leaps and bounds and while the capacity of traditional authorities withers away and becomes increasingly less suited to the task at hand, that of municipalities is growing. The more we progress along these lines, the more there will be the feeling that traditional authorities could be completely sidelined and eliminated from the formula of governance because their capacity does not enable them to perform any action on the basis of the required standards of administration.

Therefore, it is essential that especially in this Province we begin capacitating traditional authorities. I have no doubt that this policy will pay huge long-term dividends. It is a courageous and controversial policy, but one which will show the real leadership capacity of KwaZulu Natal. As you know, traditional leaders have repeatedly proposed a two tier system of local government which, at the technical level, was endorsed by representatives of traditional leaders and the Department of Provincial and Local Government in what became known in September 2000 as Annexure E. Annexure E was rejected at the political level by the Presidency and the competent Minister. In terms of Annexure E, traditional authorities could operate at the same level as local municipalities under the delegation of functions from regional municipalities. We need to determine the extent to which we can implement solutions of this type within this Province by means of provincial legislation and internal arrangements.

I have always believed that in our Province it is of great importance to ascribe as many powers and functions as possible to the regional level of local government, in our district councils. This approach not only brings about better regional planning, coordination and distribution of resources, but also enables a framework within which properly capacitated traditional authorities may perform their functions alongside local municipalities.

These are not easy issues and the solutions which I urge you to explore are undoubtedly complex. However, we must realise that in our context any rush towards simplicity is a sure formula for failure. Uniformity is surely the simplest and easiest thing to formulate and to impose, but it is not necessarily the best solution for a society which is and remains diverse and plural in its different models of societal organisation. We must have the courage to recognise the need for different forms of governance at the local level, which must leave space both for municipalities and traditional authorities. If we fail to do so, we may end up having to consider solutions to the problems created by our short-sightedness at a much later time, when we will realise that dealing with these issues has become much more difficult than it is right now. Now is the crucial time, as we are still in the process of shaping a new system of local government and we have the unique opportunity to get it right from the very outset.

I thank you.

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