

Revised.

The Fate of Traditional Leaders in Post-Apartheid South Africa

By

Frank Gansie Mabutla

Abstract

The role of traditional leaders in the Republic of South Africa (RSA) has remained a controversial issue over the past few years. The growing political tension needed the government's immediate undivided and unbiased attention. The continuing dialectical clash between forces of modernity for development and the persistent strength of traditional leadership is still an issue in the country. Traditional relationship and social structures are crumbling, while the new relationship remains to be formed. Traditional authority constitutes a form of local government in terms of indigenous law. This authority was mandated previously to legislate on certain functional activities of local government that is in charge of development. The period of industrialization and the influence of capitalism, which have long been a fate of most western countries, have today turned out to be a contemporary fate for the new democratic South Africa. The previous apartheid regime silently maneuvered to subjugate some traditional leaders while removing others from power. The same government designed and employed underground policies that were strategically and tactically ideal to keep themselves in power while using the traditional leaders for their own benefit. This paper will closely examine challenges and the effect of societal changes. The new constitution (1996) also had to be questioned on the role and functions of traditional leaders as well as their future. However it is important to note the fact that the pathology of social problems is inevitable and is mostly experienced when society is undergoing a rapid change. Undeniably the migration, urbanization and the new religion challenged the superiority of traditions and their existence. The new constitution of the Republic of South Africa recognized traditional leaders, and went further to make provision for them to establish a national body that will be part of the deliberations in the parliament. Rural development is supposed to work in conjunction with traditional authority of such a jurisdiction area. This body will be able to provide the government with information related to prioritization of developmental needs and coordination of delivery plans. Traditional Leaders still remain the national heritage on matters of culture, language and the historical context of the past, present, and the future.

Keywords: Civilization, Modernization, Democracy, Capitalism, Urbanization, and the Constitution

Introduction

Traditional leadership in the Republic of South Africa (RSA) still represents institutions that are vibrantly portraying the enormous culture of this nation. Noted societal challenges that have indirectly and directly affected the role and function of traditional leaders are civilization, modernization, democracy, capitalism, and the process of urbanization. The existence of traditional leaders in most African tribes depends on the tribal loyalties. However we cannot underestimate the hardships these institutions have gone through that kept them disorganized and confused and distracted them from matters of importance. Consequently the life span of traditional leaders is characterized by a severe and untrustworthy transformation.

African historical dynamics, including the period of colonialism and the apartheid regime in South Africa, employed strategies that tactically were aimed at dismantling the traditional institutions all over the continent. Failing to realize their shame goal, the apartheid government adopts a conciliatory stance that would at the same time serve their government's course. The homeland policy was introduced whereby most traditional leaders were assigned to be heads of established independent states only recognized by the South African government. This was done under the pretext that they were accordingly recognized as rulers of their people. When the new government of South Africa came into power in 1994, their main task was to make corrections and adjustments to the traditional institutions in the country. The 1996 constitution of the Republic of South Africa in chapter 11 and 12 made provision that it fully recognizes the traditional leaders but the same pieces of legislation fails to clarify their role and function in their respective communities. A detailed discussion of the constitutionality of traditional institutions is included in this paper.

Traditional leaders, civic organizations, transitional local councilors, government organization all with one common purpose saw it fit to come together and deliberate issues that if left untouched will delay the development process they anticipate in their community. All levels were involved into this discussion, viz. the local, provincial and national level. Their relationship encompasses finding each other, openness, coordination, harmonization, commitment, dedication, discipline, accommodation of different viewpoints, caring and a dedicated shared vision of the future in the interest of the people and patriotism.

For the purpose of rural development, it is equally imperative for traditional leaders to be involved in this process because they are the sole trustees of the trust land. There is no doubt that to make this a reality and easy for the development process this has first to take place. In addition the demarcation process of municipal areas will require all respective community groups to work consciously on such an effort. The new political order requires all South Africans to become fully-fledged citizens of a stable democratic political system. Democracy functions adequately if supported by citizens who understand its foundation in ideas, institution and practices as well as leaders who have developed skills in advancing democratic process. The existence and equal participation are undeniably very important to each person in the country. To be able to deal with this

matter, it is important to find what tradition is all about, and how it relates to other subjects.

The Meaning of the Term Tradition and Its Relation to Other Concepts

Political authority among the black Africans involves two differing levels. Each authority is deeply rooted in the idea of mutual relationship between individuals and groups. One level comprises the village community essential for its economic sustainability of their rural area. In these villages, authority rested within such individuals as head of families, the members of the council and the chief. The other level involves the lineage of the age grouping, which involves individuals with fixed status such as rulers, nobility, slave, and others. They perform a certain occupational role long associated with their family, group, farmers and merchants. To understand this anatomy much better we better take a look at the meaning of this term tradition, and how it relates to other concepts. Webster's New Twentieth Century dictionary defines tradition as the handing down orally of belief, customs, etc. from generation to generation. The Latin word *traditio* (-onis) means to surrender (or) delivery. The word tradition is originally from the Latin word *traditus*, which means to deliver. The word, tradition also mean a long established custom or practice that has the effect of an unwritten law, specifically, any of the usage of a school of art or literature handed down through the generations, and generally observed.

Tradition therefore can be referred to as a two way process, whereby one party in charge hands over or transfers an expected custom to the receiver who in turn will hold it in trust for the coming generation. The manner in which this transfer is done signify the declaration of significant importance by some voluntary or sufficient signals that he does so, transferring or has transfer the same to him who will certainly accept it. And at the same time there is a bond, by which men are bound and obliged, bonds that have their strength not from their own nature, but from fear of evil resulting from their rupture. This mutual transferring of customs can also be concluded as a contract. The important fact about this process is the transferring of customs or beliefs verbally or non-verbally, and it should be received in time for future use. It should be a complete ongoing process. The message should be coded in such a way that future generation will be able and willing to accept it as it is and pass it on.

Given such a scenario therefore a traditional leader will be that person in charge of, through his/her status to hand down long established custom or beliefs from one generation to another. When such a person is chosen, his people publicly shame him, a custom practiced in many parts of Africa, reminding a leader that his authority comes from the people, not from himself, and that he must therefore rule in harmony with the wishes of the people. Traditional leaders perform their duties in a traditional authority that is governed by rules and principles that are deeply rooted in the nation.

Traditional Authority

Traditional Authority is built up by roles, customs and practices that are accepted into the ritual of life. Certain things do occur because they use to happen that way (precedent). In our respective societies we have symbols and significant sacred. Traditionalism in this regard is then seen as a psychic attitude-set for habitual workaday life and the belief in everyday routine as an inviolable form of conduct. The domination resting upon this basis is called traditional authority. Those who for some reason of birth or ritual selection represent the traditional custom inherit authority and position as a commodity invested in them and they are not to be challenged. In this traditional set-up, the legacy of passing it on is mostly encouraged from one generation to another. Most traditional leaders inherit leadership because it was passed on them from their predecessor (Weber, 1980, p. 12).

Any authority is accepted because of the structure for decision-making and action, which are clearly defined with an objective purpose. The purpose of the institution is therefore rationally accepted into its relative society. The authority of role relationships, the hierarchical structure of vertical and horizontal links, the dependency in duties, obligations and accountability have to be logical otherwise it will be rejected in a society. Authority is therefore viewed as a legitimated power, which involves voluntary obedience based on some idea, which the obedient hold of the powerful or his position. The strongest, wrote Rousseau, "is never strong enough to be always the master, unless he transform his strength into right, and obedience into duty" (Morgan, 1996, p 910). The argument here is, too much power should not be channeled to the master who at the same time takes advantage of it. It should be bold and be directed to its goal. Excessive power turns one to be without mercy and without religion. Again, it is important to note the fact that power in the wrong hands makes one to become a threat to the citizens. Therefore, it is up to the master to exercise the right power so that the people will obey him.

Many things such as customs, roles and practices build up traditional authority. It is also regarded as the sole structure for decision-making in that jurisdiction area. Any authority is headed by the traditional leaders whose power need not to be monitored to only be objective rather than be monopolize. To be able to bureaucratize the power that might be cruel in one hand, social structures are developed. This social organization is very close to the people and together as one voice they can virtue the decision of the one in the lead. Social structures are organization that has brought progress in our communities. They manifest the sociopolitical changes in our communities. The eagerness to change and refocus brought many challenges to many traditional kingdoms.

Main Challenges of Traditional Institutions

In social stratification it is believed that mankind is divided into those who are still what they were, and those who have changed into men of the present ages, and the men of the past. South Africa also has found itself with distinguishable classes of civilians; there were those who favor change and nothing else but change and now, and those who feel change is threatening their very own existence and resist it. Some of the traditional leaders though encouraged change, at the same time they were careful about it. An essential part of change from societal systems based on the tribal relation to those based on wider regional and national relations is, of course, the growth of ideologies and values that sanctions these latter relations; in addition, these ideologies tend to denigrate the narrower and more traditional relations.

Civilization and Tradition

The word civilization, like many other terms of philosophy of human nature, is a word of double meaning. It sometimes stands for human improvements in general and sometimes for certain kinds of improvement in particular. A country is said to be civilized if we think it more improved, more eminent in the best characteristics of man and society; further advanced in the road to perfection, happier, nobler, wiser. This is one sense of the word civilization. In another sense it stands for that kind of improvement only, which distinguishes a wealthy and populous nation from savages or barbarians. It is in this sense that we may speak of the vices, or the miseries of civilization, and that the question has been seriously propounded whether civilization is on the whole a good or an evil. The most remarkable of those consequences of advancing civilization, which the state of the world is now forcing upon the attention of thinking mind, is this, that power passes more and more from individuals, and small knots of individuals, to masses: that the importance of the masses becomes constantly greater, that of individuals less. (Mill 1996 p. 51-52). In Africa, civilization is concluded to be an introduction of the other type of culture, being typified by a greater preponderance of those traits, which are diametrically opposite to the folk characteristics just enumerated. The difference between the white settlers and the native folks showed successively increasing amount of European civilization. In this series, where communities were successively larger in size and degree, the western civilization keeps on corresponding to them. The conclusion of this interception was the loss of cultural homogeneity, which led to social disorganization, which were sufficient cause for development of secularization and individualization (Miner, 1974, pp. xii - xiii).

Civilization gave birth to one similar term referred to as modernization. Though the two terms might sound the same, their difference comes with time and the way they were introduced to the people of Africa in particular. Modernization like its counterpart civilization is seen to be the right way of doing the right thing. Moreover, this is concluded to be the transformation each nation has to acquire to be on the same standards with other nations. What exactly does this concept mean to Africans of Diasporas?

Modernization and Tradition

C.E. Black defines modernization as "the process by which historically evolves institutions are adapted to the rapidly changing functions that reflect the unprecedented increase in man's knowledge, permitting control over his environment, that accompanied the scientific revolution." Dankwart Rustow writes that modernization is a process of "rapidly widening control over nature through closer cooperation among men." And Marion J. Levy, in a major hypothesis in his work, asserts that "the greater the ratio of inanimate to animate sources of power and the greater the multiplication of tools, the greater is the degree of modernization. Modernization is most concisely defined as the process by which men and women increasingly gain control over their environment. Perhaps the most dramatic dimension of modernization is the technological revolution, which carries with it the impressive trends of industrialization, economic development and communication. Spurred by the discovery and exploitation of minerals, these economic and technological factors provide the driving force of modernization mostly in Africa. Modernization is inevitable and omnipresent. In the words of Marion Levy, it is a "universal social solvent." Those societies that are relatively more modernized have been located in the West, and hence the process has sometimes been unfortunately referred to as Westernization (Bill 1994, p. 3-5). This term, in Africa, tends to be used to cover all the process known as "detrribalization," "Independence," "neo-colonialism," and so on. It refers essentially to the widening of economic and political scale of "traditional" societies under the impact, direct or indirect, of outside economic and political forces (Middleton, 1970, p. 341).

Modernization determines the politics of the rich, primarily as the historical task of South African bourgeoisie, in the transformation of the conservative feudal state, then in democratization, finally in the struggle against revolution and socialism. Socialism contradicts the idea of occidental reason, as well as that of the national state, hence it is a word, historical error, if not a world, historical crime. In the early sixties democracy became the new world order, and many nations wanted to be seen or perceived as democratic. It is an old term but it was now popularized in this time where many African states after claiming their independence tried to merge with the world by encompassing democracy in their governments.

Democracy and Traditionalism

South Africa was for many years before the settlers ruled by a succession of kings such as Shaka, Makhado and Sekhukhune. They were regarded as the sole source of political power. These men governed through a hierarchy of territorial chief, who held office by their favor and their gift. Each chief had to give tribute and service either directly to the king; or indirectly through the chief next above him in the hierarchy, and the higher chief had to attend the king's court when called upon. Traditionally, it seems this state of affairs was acceptable to everyone, and was not. The system was much justified by both myth and rituals, and it may be supported that, on the whole, conflicts were reasonable in terms of values which were shared by both rulers and subjects. And still the system was not democratic at all.

Democracy is defined as government of the people by the people for the people, which encourage free expression, dialogue and participation by all in the management of their respective areas. In true democracy diverse ideas within a given community are taken into account and respected in an open, transparent atmosphere. The imperative of sharing both wealth and duties in accordance with each person's potential must be based on justice and human dignity that must be exercised with caution. Democracy should reinforce the cultural values of community life, guarding against individualistic tendencies. Democracy is not a ready made structure, but when communities "inclusively" came together, encouraging a community of harmonious sharing this signals the presence of unity liberty and freedom (Karamaga, 1993, p. 27-29). Traditional leaders in South Africa want the government to consider what they refer to as democratic culture. This new concept will enable them to deal with democracy that will be brewed and manufactured within the country. They despised western democracy because it does not in any way recognize their roles.

Max Weber defined power as "the possibility of imposing one's will upon the behavior of others" and he went further to point out that in this general sense power is an aspect of most, if not all, social relation. He identify the originality of power, as a constellation of interest that develops on a formally free market, and power again derive from established authority that allocates the right to command and the duty to obey. However, it is equally important to also not the fact that the respond of the subject person power implied to, rest upon his fear, rational calculation of advantages, lack of energy to do otherwise, loyal, devotion, independence, or a dozen other individuals motives. The central concept of democracy is the phenomenon of power; *personal* bodies, does not mean that total power is invested in that person. If that happens then we are facing autocratic power, individualized power or personal power.

It is therefore important from the argument that those who are in position of authority are there because of the trust that those who follow bestow on them. Authority involves the legitimacy of power to give commands which are governed by rules that are rationally established by enactment, by agreement or by imposition. The establishment of legitimated rules therefore rests upon a rationally enacted or interprets "constitution" orders have to be given in the name of impersonal norm rather than in the name of a personal authority. Democratically power is ceded to elected officials and it does not in any way means that people should be undermined.

The 19th century marks the beginning of democratic revolution and the responsibility of government officials replacing the aristocrats. The structure of international morality underwent a fundamental change. In the new age, officials elected or appointed regardless of these class distinctions have replaced aristocratic rulers. Officials are legally and morally responsible for their official acts, not to a specific individual, but to a collective (that is, a parliamentary majority, or the people as a whole). An important shift in public opinion may easily call for a change in the personnel making foreign policy. Officials are routinely replaced by another group of individual taken from whatever group of the population prevails at the time. (Morgenthau, 1966, p. 248-9) Modernity and civilization has not only brought democracy to the people, but also a capitalistic system.

Traditional authorities were now expected to come up with a resolution as to how to deal with such challenge. Though their fate was in the hands of the people, money has turned out to be a way of dealing with traditional setups. Money becomes the power of any ordinary man.

Traditional Communities in a Capitalistic System

Capitalism needs to be evaluated to be understood as necessary reason. The theory of intrinsic value denotes that freedom or ethical neutrality of science reveals itself as that which it is in practice, an attempt to make science "free" to accept obligatory valuations that are imposed on it from the outside. Capitalism again involves the value-free economics to claims of national power politics. Pure, value-free, philosophical and sociological concept formation becomes through its own process, value criticism. Inversely the pure value-free scientific concept reveals the valuation that is contained in them. They become the critique of the given, in the light of what the given does to men and things. The concept of industrial capitalism thus becomes concrete in the formal theory of rationality and of domination (Marcuse, 1969, p. 201-226).

The modern world involves the impulse of acquisition, pursuit of gain, of money, of the great possible amount of money, which cannot in any way be concluded as capitalism. The unlimited greed for gain is not in the least identical to capitalism, and is still less its spirit. But capitalism is identical with the pursuit of profit, and forever renewed profit, by means of continuous, rational capitalistic enterprise. Therefore capitalism can be defined as a capitalistic economic action as by the utilization of opportunities for exchange, that is on (formally) peaceful chances of profit. The means that the action is adapted to is a systematic utilization of goods or personal services as a means of acquisition. Capitalism has always existed in one form or another in every age. The ethos of modern capitalism is referred to as a sense of obligation in making money. It is not the accumulation of capital in itself that is the decisive thing, but rather a methodical accumulation of it that is a chief characteristic of modern capitalism (Green, 1957, p. 1-20).

The capitalistic economy of the present day is an immense cosmos into which the individuals is born, and which presents itself to him, at least as an individual, as an unaltered order of things in which he must live. It forces the individual, insofar as he is involved in the system of market relationship, to conform to capitalistic rules of action. The spirit of capitalism, in the sense in which we are using the term, had to fight its way to supremacy against a whole world of hostile forces (Weber, 1958, p. 72-3).

The emancipation from social political and economic traditionalism appears to be a factor, which would greatly strengthen the tendency to doubt the sanctity of religious tradition and of all traditional authorities. Transformation meant not the elimination of traditional control over everyday life, but rather the substitution of a new form of control for previous one. Weber once concluded "man is dominated by making money, by acquisition as the ultimate purpose of his life." The economic acquisition is no longer subordinated to man as the means for satisfaction, for his material needs, but his ultimate goal in life.

The Western idea of reason realizes itself in a system of material and intellectual culture (economy, technology, 'conduct of life', science, art, etc.) that develops to the full in industrial capitalism, and this system tends towards a specific type of the contemporary period, a total bureaucracy. There is no doubt that the spirit of capitalism determines the rationality and decides on our foreseeable future. As a universal functionilization it becomes the pre-condition of calculable efficiency, of universal efficiency insofar as functionalization makes possible the domination of all particular cases and relations. Abstract reason becomes concrete in the calculable and calculated domination of nature and man. The value-free concept of capitalism, rationality becomes critical, in the sense not only of pure science but also of an evaluative, goal-positing critique of reification. Capitalist industrialization becomes wholly a form of power politics, that is, as imperialism (Marcuse, 1969, p. 205-6).

Some historians in Southern Africa were so committed to emphasize the role of capitalism as the molder of modern South Africa that they ignored the processes of that which shaped the society before Europeans began to intrude in the region. Indigenous South Africa was not a *tabula rasa* for white invaders or capitalists to civilize or to victimize. Over many years they have been developing social forms and cultural traditions that colonialism, capitalism, and apartheid have assaulted, abused, and modified but never eradicated. No one can fathom the vigor of black resistance to the Apartheid State without knowledge of pre-colonial African ideas about the social and economic obligations of rulers and rights of subjects, and the basis of political legitimacy. Missionaries and administrators as well as many white farmers had strong ideological and political obligations to the operation of a free market economy (Gann, 1981, p 1-48).

The origin of a major problem in South Africa was undeniably the eroding of traditional authority. Political power was in the hands of the white minority and this really strains Africans. Towards the end there were very few options to take as citizens of the country, whether to align with the apartheid regime and die or to revolt against it for the betterment of future. The origin and manifestation of the social problem was inevitable. Traditional leaders have managed to survive the hardships of modernity, civilization, the democratization process and the capitalistic system that was impose on them. Their history is as old as mankind. They managed to survive all man made conditions that were in a way aimed at destroying their image, and today they are to deal with urbanization.

Urbanization as a Social Process

The establishment of colonial administrative system, the collection of cash crops, the sale of new important goods, the development of communications, all implied the rapid growth of towns and cities. Whether a man settled in town permanently or not, his life there was an invaluable training in the ways of the new modern world. Apart from the schools, the towns were major channels by which the new forces could be brought to bear on the individual, in an environment quite different from the traditional one to which he was accustomed (Post, 1964, p. 49-50).

Urbanization can be defined as the process whereby people acquire material and non-material elements distinctive of the city. The capitalist interest required urban facilities, which previously had barely existed. Africans were directly forced into wage-labor; the government imposes taxes, which had to be paid in cash. This direct method of obliging Africans to migrate did not in itself establish a whole new pattern. Migration for purpose of earning money became established as a voluntary procedure, especially as such was now acceptable in place of the customary marriage payments.

Migration was also encouraged by the diversified economy. All this suggests that for many of the younger men migration has become virtually a modern form of initiation rite. Migration was also seen as a way of escaping local taxes and court fees and maltreatment at the hands of older relative, husband or chief. The rural exodus is one of the most important characteristics of social change in contemporary Africa. The result of this urban migration is that there was industrialization more rapidly than on other continents (Little, 1974, p. 7-94). This was the beginning of a major radical change, the industrial revolution.

Industrialization

Industrialization and capitalism become problematic in two respects; as the historical fate of the west, and as the contemporary fate of the rise of governance in South Africa. The fate of the west is the decisive realization of that western rationality, that idea of reason, which rationality, that idea of reason, which Weber traces, in its open and veiled, progressive and repressive, manifestations. There were numerous economic barriers for black South Africans. Strict controls were imposing on blacks where they will live and where they are going to work. The main aim to permit blacks in the cities was to employ them as migrant workers, who were not allowed to settle there permanently. An overwhelming male black working force was developed therefore, with women restricted in order to prevent the development of permanent black urban class. This did not prevent the growth of permanent black urban enclaves with a large flow of individuals back and forth to the rural "native areas" of the country (Sowell, 1983, p. 114). The period of industrialization has also brought many changes in the areas where many chiefs are in charge. African Clerks, war veterans or mine laborers could not be expected to pay attention to their tribal chiefs while working in the city far from home. Certainly, a man from the village cannot pay part of his hard-earned money to the chief's treasury. The newly introduced religion was part of the industrialization of the world, which speaks of the Savior as the only one to be obeyed rather than the king or chief.

Religious Trends

There is a distinction between primitive and civilized religions. In the late nineteenth and early twentieth century, it was taken for granted that the history of religion could be written in accordance with the then dominant theory of evolution. The history of mankind essentially follows a line of progress from rude and simple beginnings towards the full achievement of the complex blessing of civilization. To secure a sense of religious unity between the various people, who were absorbed into this or that civilized empire, ancient

empires exhibit their religions to dominate other parts of the world. Towards the completion of this amalgamation process, were religious geniuses that caught the vision of the world in peace and brotherhood. Their main emphasis was the moral virtue that must be practiced if such a vision is to be realized, and those who believe should embody these virtues and must no longer be conceived in terms of primitive ideas that are inconsistent with them (Burt, 1964, p. 97-8).

In any community on the surface lie the imported or established religions - the various forms of Christianity and Islam, for example - while at the bottom lies all that remains of the flourishing traditional religions. Somewhere in between lies the middle strata of the African independent churches, offering a mixture of elements from both upper and lower levels (Shorter, 1974, p. 84).

Missionaries, students dedicated to freeing their charges from "heathen superstition" were not likely to accept the claim of a chief to have divine power or an "in" with the tribal gods, and thus could not accept the chiefs' religiosity and their claim to political authority. The priest offered prayers, sacrifices, and cannot serve another man other than the Savior (July, 1974, p. 14). The church has not only freed people from traditional setups, but has also encouraged and brought about business leaders and owners of capital, as well as the higher grades of skilled labor, and even more highly trained personnel of modern enterprise technically and commercially. The difference in religion coincides with that between traditional nationality, and cultural development. The history of many traditional kingdoms is characterized by detrimental factors. But still they manage to exist.

Historical Dynamics

In an age of transition, the line function of authority might suffer the consequences of those individuals who endure less faith in the system, and how it carries out its daily duties. The dream of social reform and the building of a more ideal society were basic to the thinking of John Sterwart Mill. Mills believe that the phenomena of social living conform to fixed laws in our societies. Although he publicly argues that society is not found on a contract, Mill identifies the importance of social obligation as a foundation of a great nation. To reach its fabric quality, Mill further alleged that everyone who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest (Morgan, 1996, p. 1076).

Individuals or multitudes are always without a direction or guide and as such they are exposed to all kinds of evil and dangers around the world. So argued Thomas Aquinas, who taught that man is naturally, a political being and seek to be in a society. He further argues that the supreme purpose of the state is for a man to find good in a group (Frost, 1989, p. 190). That being said, I believe that it is also important to take into consideration that every society is undergoing through some changes. Some may be good and some bad. However, that is unavoidable to any man living on this earth. At the very end of the day, certain behavioral conduct of men of the past will continue to insist upon our still

adhering blind guide. Whereas, modern men will command with a sense of remarkable assistance to each other for the common good and prosperity of the nation. Well, society should be a field where individuals will share their experiences and grow through sharing.

Differing goals of the African National Congress and the government of the day were influenced by historical trends apparent around the world. Three particular currents had special relevance to South Africa. First is the decolonization process which has already become an ancient history in most parts of the third world countries, trying to come to grips with economic decay and authoritarianism but a poignant issue in South Africa, where blacks still had no political rights.

The second is the transition from authoritarianism to democracy, which was on the political agenda of Africa countries and South Africa too. The last currents were the revival of nationalism, which was already changing the political configuration in South Africa. All these trends belong to the distinct periods, in South Africa; they were telescoped into one (Ottaway, 1993, p. 14-15). Silent erosion of traditional leadership has long evolved underground operations that were strategically and tactically designed to develop new government for the new future lay ahead. The study of strategic and tactical problems of councilors and traditional leaders is geared towards maintaining the most effective use of government agent against the traditional institution. The same methods applied were found so useful to totally controlling the traditional leaders.

William Cooper once stated, *"Like it or not, everything is changing. The result will be the most wonderful experience in the history of man or the most horrible enslavement that you can imagine. Be active or abdicate, the future is in your hands."*

This argument is clear and to the point, no one will ever stop the changing phase of our governments. The best way to save your life in a river is to flow with it and maintaining the status quo you want, rather than to diverge and flow in the other direction. Changes are brought about by the many different administrations. This change is twofold; to some it will be the most wonderful experience in the history of South Africa, but to some it will be the beginning of the struggle for existence. Social engineering is one phenomenon is one of the most vivid tasks that each and every government is looking forward to have a full control of its subjects. Although moral issues are at stake, it is considered much that a nation that cannot use its intelligence is better than an animal that does not have intelligence to survive. Finally, the future of South Africa seems to rely on this mechanism to restore the political order and make peace and tranquility. Traditional leaders sometimes find themselves with minimal chances, either to accept what the government is offering or to revolt and stay out of the politicization of the traditional authority.

The Homeland Policy.

The apartheid government employed a policy called the homeland policy in the early nineteen sixties. The strategy was to divide Africans and the same time governs them. The word homeland means the natural home of a certain type of people's "ethnic group." Many of these so-called homeland citizens have never set eyes on their alleged homeland. Their families have lived in major urban cities far from the homeland for so long. The homeland policy was to preserve and separate blacks' ethnic identities while lying that each group would have an undisturbed culture and national pride.

Many African politicians were totally against such division, and all who have collaborated with this tribal and ethnic apartheid by either accepting the balkanization of the blacks' territorial heritage or lending some degree of credibility and respect to the homeland leaders, mostly chiefs, were labeled as "sellouts". The ruling party, the National Party's policy of homeland was based on arithmetic, and on the aim of retaining all power in the hands of 3 millions of South Africa's 4.5 million white, to rule over 16 million blacks, 1 million Coloreds, 1 million Indians and the non-Afrikaners and anti-Nationalist whites. Three million whites were able to divide and rule over 20 million people, and as a result the homeland policy was involved (Woods, 1978, p. 48-50).

Black Local Government

Under the 1962 and 1963 legislation the government of South Africa established bodies known as urban Bantu council (UBC's) with elected majority and minorities composed of representatives of tribal chiefs. These bodies were meant to advice local white authorities in the day-to-day administration of local government. By 1976 they have ceased to play any significant role in local affairs. Soweto unrest of that year had a massive impact on them. In 1977 the government abolished UBC's and replaced them with elected community council (CC's), which fell directly under the control of the minister of cooperation and development. Allowance was made in the legislation for CC's to make recommendation on housing, transportation and recreation. By 1979 198 CC's had been established, and a government spokesman declares that they would eventually receive the same status as white municipalities (Thompson, 1982, p. 97-8).

Conflicting Matters at the Local Level

The role of traditional leaders strikes at the heart of the most important democratic principles, the struggle during the apartheid era upon which the constitution is founded: democracy, one man one vote elections which serve as a basis upon which power will be exercised, and the right to call. Traditional leaders have several demands to be met. They fear that the restructuring system of local government, which extended district municipalities into rural areas, will subvert their un-elected traditional authority. The issue here was that traditional leaders want not only to be present in the elected council but also to have the right to vote there. This eventually makes an unacceptable nonsense of democracy. Traditional Authority wants to be the primary level of local government and to amend legislation including the constitution, to further accommodate their

hereditary powers. This is a country reputed to have the most democratic and progressive constitution in the world. This poses an unfortunate and dangerous political development since the first democratic election in 1994.

There are several reasons as to why the government of South Africa held to reason by this conservative clique, whose power is not based on free and fair elections but on an archaic traditional and cultural system, which represent elements in the rural hinterland. The reason was the African National Congress in order to scuttle the peace and negotiation process, from 1992 onwards, accommodated the traditional leaders as part of the deliberations, partly to win over politically. They were accommodated in the constitution, though not to their desperate satisfaction. They were represented in the House of Traditional Leaders that enables them to participate in making laws that affect them. They have six provincial Houses. They receive salaries which annually cost taxpayers R577 millions a year though they are not elected. In an effort to fully address their concern, the government increases their representation in Council from 19% to 20% and postponed the date of the election of municipal Councilors several times (Matlou 2000).

The short sighted response to all this will be, the fact that this will not solve the problem but instead contribute to further undermines the democratic ethos of the constitution and strengthen the hand of the leaders. Today South Africa is facing a huge task of dealing with earlier compromises. The more the regiment gives in to these demands the more it will be expected to give in more demands. Traditional leaders on the other hand argue that municipal councilors cannot function and render services in areas under their jurisdiction without their authority being usurped, which spell out clearly the contradiction between democratic government and hereditary powers. Traditional Leaders might also be hiding behind tradition to protect a privileged power base (Harvey, 2000, p. 1-2).

Tribal Loyalties and the Omnipresent Traditional Leaders

One major reason why traditional leaders continued to exist in this critical time is that their existence is deeply rooted in the culture of their people. They are much more closely associated with culture or the tradition of their people. They are the mediators; they are the mouthpieces of civilians who are unable to express themselves, and above all leaders of leaders. Even in pre-colonial times, the tribe was in some sense a category of interaction. Among other things, tribal loyalties explain certain divisions, oppositions, alliances, and modes of behavior between, and towards, different human groups. This solidifies the loyalties that each man has to his tribe. Today, the tribe is still being seen as a category of interaction, but it operates within a different, and much wider, system. Social changes have given tribal loyalties a new importance and a new relevance. This remains the foundation of omnipresent traditional leaders. Traditional leaders have been engaged in social engineering and experimentation, and they have also learned to adopt and apply their ethnic loyalties to new experience in a time of change.

Civilization was welcome with mixed feelings in some cases because it came along with colonialism. It resulted in the introduction of cultures of the West while at the same time

belittling and attempting to eradicate traditional leaders. Civilization still portrays two images, good and bad. The fact that man can control his civilization is true, widespread, and deeply rooted. It is important to note that customs and institutions are but man's creations and are here only to do his bidding. It lies within man's power; therefore, to chart his course as pleases, to mold civilization to his desire and needs. There is a tremendous feeling that after the vicissitudes of civilization black Africa thereafter was introduced to modernization. The unevenness of modernization in Africa is in itself a source of tension and conflict. Modernization is seen to be an unsettling, disruptive, painful process. Inevitably, the commutation rituals of the past suffer as a result of urbanization. They are curtailed and celebrated by a very much reduced community, often the family alone. More individualistic power is being channeled into urban areas and they surely arouse and immense amount of tension. Although the democratization proceeds on a wide front, the political life of many African countries at a popular level remains their special interest. Therefore, this indicates a lone of conflict between traditional values and western "democratic" ideology. Democratization cannot be such a bad idea only if a formal advisory is available to all those who are involve. What's the relationship between the government and traditional institution constitutionally?

The Relation between the New Government of National Unity and the Traditional Leaders

Traditional Structure of Leadership

Most traditional leaders are having no negative opinions about the new governmental dispensation other than the way these changes are to be implemented. They do hope instead that the new dispensation will give them a better chance to perform their duties like before. The main requirement that was recently put forward by the new government is that both urban and rural areas be under the jurisdiction of the local government. Under ordinance 17 of 1939, local governments are expected to provide services and to make delegated legislation to regulate and direct the provision of such services. The transitional local government Act also affirms this state of affairs. The complacency of the situation arises when traditional leaders and elected councils had to carry out certain communal services. Prior traditional leaders were providing such services local councilors are providing them today.

Traditional Leaders on a National Level

The interim constitution of South Africa (Constitution of 1993), serves as our point of departure, because it clearly made provision for a more legitimate body than those found in the final constitution. Traditional Leaders participation in governmental issues was identified. The national council of traditional Leaders was to serve as a part and parcel of policy making. The council was also to serve as a forum of traditional leader of the various tribes of the land who were forced to live apart from one another under the

homeland Act. Despite the general efforts of Contralesa (Congress of Traditional Leaders of South Africa) tribalism does still pervade the many perspective of traditional leaders. It would be very wrong to exterminate tribalism by trying to sideline traditional leaders rather than to deal with the facts and reality of it. Tribalism differs marginally from the monopolistic idea of traditional leadership. Tribalism has for some time being susceptible as an excuse by politicians serving their own agenda rather than dealing with the real facts concerning the traditional leaders. The Traditional Council was to serve as an instrument of unity amongst the African languages groups of the country. The biggest threat in South African politics still remains the tribalistic ideology that might pose a severe economic, political and social threat in the national government (Holomisa, 1997).

Provincial Level

The constitution of South Africa (1993) 183-(1) state that the legislature of each province in which there are traditional authorities and their communities, shall establish a House of Traditional Leaders consisting of representatives elected or nominated by such authorities in the province. (Constitution of SA, 1993) The 1993 constitution provides for the establishment of provincial houses in which there are traditional authorities and the communities. The constitution also stipulates certain basic principles concerning the establishment, composition and function of the house. Under this 1993 constitution the provincial legislature had the exclusive power to set up a house. Traditional authorities under this constitution are recognized as primary unit of traditional leadership, as the house consisted of representatives emanating from traditional authorities. The 1993 constitution made mention that all provincial Bills pertaining to traditional authorities, indigenous law, or such traditional custom, or any matter related to, had to be referred to the house for its comment before it could be passed by such legislature. Provincial level institutions are therefore not homogenous in terms of tribal composition of the house. It is therefore of paramount important for this government sphere to use the house of traditional leaders as an instrument of unity across language and cultural barriers. Rural developments are supposed to work in conjunction with the house of traditional leaders which will advice the provincial government on the prioritization of the developmental needs and coordination of delivery plan.

The Role of Traditional Leaders at the Local Level

The 1993 Constitution of South Africa, chapter 11 item 182 (1) made mention that traditional authority of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government refer to in chapter 10, shall ex-officio be entitled to be a member of that local government, and shall be eligible to be elected to any office of such local government. The constitution provides a compulsory representation of the traditional leader in local government structure within his area (Constitution of South Africa, Chapter 11, 182 (1) 1993).

There are so many ways that the traditional authorities constitute a form of local government. In terms of indigenous law and the legislation of certain functional activities of local government, traditional leader finds themselves as part and parcel of that development taking place in their areas. They are involved in road construction, school, clinics and other similar community infrastructure. Such social amenities are carried out in a jurisdiction area where traditional authority is in charge. These structures never fully assigned to traditional leaders. Earlier it was the apartheid's government promoting their single-minded policies and presenting this minimal development for African people. The point is traditional leader's image was being used to achieve certain political mandates of the government. Contralesa emphasizes that traditional authority should ever remain the primary level of rural government (Holomisa, 1997, p. 1-7).

Council of Traditional Leaders

Constitution of South Africa, 1993, 184(1) states, there is hereby established a Council of Traditional Leadership, consisting of a chairperson and 19 representatives elected by traditional Authorities in the Republic.

The 1993 constitution also made provision for the establishment of a Council. It also prescribes certain basic principles concerning the establishment, composition and functions of the council. Provision is also made that the council is to be elected by an Electoral College constituted by the house of traditional leaders. The 1993 constitution mandates that all Bills pertaining to traditional authorities, indigenous law or the traditions and customs of traditional communities, or any matters having a bearing thereon, had to be referred to the council for its comment before being passed by parliament. The council had had minor delay powers in case of opposition to the Bill (Sizani, 1997).

Functional Activities of Traditional Leaders

Language and Culture

Traditional leaders saw it fit to remain as principal guardians of language and culture. They consider the two components as national treasure for all South Africans. Traditional leaders are therefore willing and able to advise the Department of Education, Arts and Culture on issues that are related to the norms and values of their culture. Should the two

components be treasured in their position, Traditional leaders assure the continual enjoyment and pride of any tribe, which wants to sustain their language and culture.

Circumcision School

Traditionally young men and women were taken to initiation schools for moral upgration in particular. It really takes men to decode young boys into great men in the community and the circumcision school was the only institution to carry out such training. Though the choice is minimal, traditional leaders still claim to be the best in organizing and managing such schools. Their role in this regard has been appreciated and they still claim that they have the trust of their communities on this type of initiation.

Witchcraft Issues

One African author once wrote, "No witchcraft is for sale." African traditional religion, like any other religion identified certain evils that demote goodness as witchcraft. These evils can mostly be found in rural areas. It is however very hard for one to identify the perpetrator of such an act. Traditional leaders have on several occasions dealt with such cases, and therefore this reinforces eligibility.

Customary Courts

An authorized traditional leader may hear and determine civil claims arising out of indigenous law and custom and brought before him by the defendant and the plaintiff. Courts constituted in this way are commonly known as chief's courts or customary courts. Litigants have the right to choose whether to institute an action in the chief's court or in a magistrate court. Proceedings in chief's court are informal. An appeal against a judgment of a chief's court can be heard in a magistrate court (Keyter, 1992, p. 55).

Customary courts are somehow referred to as other courts in the new constitution of South Africa. Despite the fact, traditional leaders are still allowed to use African customary law to judge local civil dispute and to try minor criminal cases, though they are still not allowed to try serious criminal cases. Traditional leaders are depending on the country's judicial system to grant them relevant powers to beef up their system and modernize them so that they will fit in the new government. Traditional leaders are therefore ready to be capacitated with paralegal skill to carry out unbiased judgment. Traditional leaders still claims that customary courts are still the best legal system that is not costly and that they excel in it.

Provisions on the Role of Traditional Leaders and Local Government: The 1996 Constitution of South Africa

Chapter 12

Recognition of Traditional Leaders and Institutions

211(1) the institution, status and role of traditional leadership, according to customary law, are recognized, subject to the constitution.

211(2) A traditional authority that observes a system of customary law may function subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or those customs.

211(3) the courts must apply customary law when the law is applicable, subject to the constitution and any legislation that specifically deal with customary law.

212(1) National legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.

212(2) to deal with matters relating to traditional leadership, the role of traditional leaders, customary law and customs of communities observing a system of customary law.

(a) National or provincial legislation may provide for the establishment of house of traditional leaders, and

(b) National legislation may establish a council of traditional leaders.

The new constitution of 1996 made provision for the role of traditional leadership at local level. Item 26 (1) (b) in schedule 6 of the 1996 constitution provide as follows," A traditional leader of a community observing a system of indigenous law and residing on land within the are of a transitional local council, transitional rural council or transitional representative council, referred to in the Local government Transition Act, 1993, and who has been identified as set out in section 182 of the previous constitution, is ex-officio entitled to be a member of that council until 30 April 1999 or until an Act of parliament provides otherwise.

Item 26(1) 9b0 of schedule 6 to the 1996 constitution thus contains substantially the same provision as those of section 182, of the 1993 constitution. The main restricted to transitional local, rural or representative council (primary bodies). This will have the result that form the coming into effect of the 1996 constitution, the membership of traditional leaders on district council will be in conflict with the new constitution. The relationship between local authorities and traditional leaders was never ever normal. This relationship becomes so complicated because of the constitution not able to identify the duties of traditional leader in a local council and cannot fully explain them. This is one major part of the constitution that still remains not clear and therefore creates confusion and tension in the many local authorities of South Africa.

Proclamation #R109, 1995 on the manner and guidelines for the identification of traditional leaders as who shall be the ex-officio member of local government has been helpful anyway. The traditional leader's position has been identified as the supreme office

of authority amongst all leaders of the tribe. The fact still remains that traditional authority is not included in this identification and that still remains a question of the position of the traditional authority in the local government. The conflict arises as a result of the fact that elected councilors and traditional Authority occupy the same area and are all expected to carry out certain functions, which are much the same.

Traditional Leadership and Institutions for the Future

The constitutional court listed in paragraph 45(g) of its judgment (CCT 23/1996), states, "the recognition and protection of the status, institutional and role traditional leadership" as an integral part of our basic constitution framework. It must be noted that the new constitution recognizes the existence of traditional leaders and as a result made provision that such authority deserve a national protection. However we cannot oversight the fact that certain standards still remain unattended. It is true that the new constitution has some weakness on the role and protection of traditional leaders and institution and again it create an environment, which call for a policy of development regarding the traditional institution. The Department of Constitutional Development needs to define in clear and concise term the role and status of traditional leaders with a policy that will be able to normalize the current situation between the traditional leaders and the elected councilors.

Amongst many things that need to be addressed by the government, the chief Directorate has to come up with a policy that will promote and protect traditional leadership and their institution. A policy on traditional leadership needs to be drafted and put in place to enable functionality the customary law within the democratic state. Should of course traditional leaders and institutions becomes part of the development in the areas, it will therefore befit that they should receive a stipend that will help them to build capacity. The department also will be required to identify the status and role of women in rural communities where traditional leaders and institution are operating (Sizane, 1997).

This year (2000), the government produces A Draft Discussion Document towards a White Paper on Traditional Leadership and Institution in April. The new Local Government legislation has caused great unhappiness among traditional leaders. It has failed to confront head-on the issues of what power they should have, and an insulting amendment earlier on to the latter that affirms traditional leader's authority to oversee matters of such importance as the collection of firewood and the like. That was the situation until Wednesday's cabinet meeting. The government has failed several times to do the audit it had promise aimed at sorting those traditional leaders who have genuine lineage from those given chieftaincy by colonial administration and the apartheid government. There is an overwhelming wish to save at least part of the traditional institution, those traditional leaders with a lineage uncorrupted by colonial administration and the Apartheid State (Barrel, 200, p. 1-3).

Fred Hendricks of Rhodes University's Sociology Department warns against the uniform acceptance of legitimacy of all traditional leaders. Most traditional leaders he argues, are widely discredited, notably on the ground in rural areas and also warns against using chieftaincy and a relationship to it as a basis for identifying some people as Africans in

the "African Renaissance" project of President Thabo Mbeki. A proper demand and full debate on traditional leaders can do much well. Meanwhile a special cabinet committee whose job is to use the next forth night to provide sufficient reassurance of traditional leaders to avoid a political train crash in the short term, while the chiefs longer term future is sorted was established. The committee is to achieve this by drawing up a series of more exciting amendments to the local government structures Act that will be rushed through to parliament shortly. Minister of Provincial and Local Government Sydney Mafumadi mention that the government hope to finalize its new policy by March 2001, introducing legislation on traditional leaders' long term future to parliament by July.

Traditional leaders in South Africa unwelcome the constitutional provision that never distinguishes their role and functions in their respective communities. Their feeling was that the new constitution would re-position their situation regarding the delaying powers and the opposition towards any Bill relating to their council an attempt to meet the democratic order, the suggestion was traditional leaders retain their ranks like before. The rest and majority of councilors that is the headmen are continually elected for a specified period of time. This arrangement was guaranteed to enable rural communities to enjoy the benefit and understanding of the daily requirement of democracy and the traditional modernization (Holomisa, 1997, p. 1-150).

The Land and the Development Process

The role of traditional leadership and institution discussion also involves the land issue and its development there upon. To be able to understand quite clear about the traditional leadership and their relation to the land we should first look at the history of the land usage and allocation in the South African politics. Until 1913 Europeans were indeed able to purchase "native" land in Cape and in natal. The operation of a free land market, however, naturally benefited the wealthier whites; had Europeans been granted full freedom of purchase, the "native" areas would largely have disappeared, and the blacks would have been reduced to a landless proletariat, a grim prospect for white conservatives. Revolutionary capitalism, with its corollary of a free land market and free social mobility, did not therefore prevail in South Africa. The native land Act of 1913 put an end to the erosion of native land holdings. Under this new Act, Europeans and Africans were alike forbidden to acquire land in each other's areas. Just over 7% of the South African territory (later enlarged to 13%) became schedule areas reserved for Africans' occupation alone. Africans, on the other hand, could no longer acquire land outside their reserves (Gann, 1981, p. 57).

The main characteristics of traditional leadership is the tribe and the where their authority is fully exercised. The number of his people and the area of the land occupied mostly measure the strongest and popular traditional leader. The most important fact that needs be taken into consideration is, traditional tribal war was about uniting different tribes into one, and therefore one can conclude all African kings have been fighting for the united

Africa because of their belief in one nation. A traditional leader cannot exist without a tribe and the land. Both have to be equally there at the same time.

The tribe owns tribal land but the traditional leader on behalf of the same tribe holds it in trust. Custom and tradition is clear in the indigenous law that traditional leader be in control of the land. It is the duty of the traditional leader to administer the allocation and use of the land with agreement to his councilors, who enjoy the trust of their members of the community. The allocation of land is mostly guided by the views of the community members who reside in the same area. The tribe is the owner of the land, which determines how and when it should be used. Elected councilors have no land and accordingly, while they may rule over their subjects they cannot decide on the use of tribal land. For purpose of rural development, therefore it is equally imperative that traditional leaders be integral part of elected local government structures. This will make easy the development process that is taking place in that area (Holomisa, 1997).

The Demarcation of Traditional Authority Land

The Demarcation Board redetermined some of the boundaries after traditional leaders raised their concerns. But still demands grow. Traditional Leaders want to extend the substantial concession they have already won, but how much and for how long. It is important to note that if they can get their way with this, it will be a serious blow for the democratic functioning of local government. The second reason to be looked at is the commitment made by President Thabo Mbeki. He encourages the amendment of the constitution to further accommodate traditional leaders if necessary. Another loophole that will remain unanswered is how we strengthen democracy whilst making fundamental undemocratic compromises with undemocratic forces.

The demarcation of traditional authority land into different municipalities is indeed a demarcation issue. The traditional leader holds the trust land in trust. The demarcation of municipal boundaries over traditional land becomes untenable. Example, the scattered traditional land of Quadi, consist of six separate pieces of land, and of Embo/Nkasa and Isimahla in Kwazulu Natal are at the heart of dispute over the demarcation process - a genuine demarcation issue that the affected traditional authorities are taking up with the Municipal Demarcation Board. Dr. Mike Sutcliffe, board Chair, maintains that the demarcation process is not solely about demarcation of land, but also municipal jurisdiction. In some cases traditional authority land consists of pieces of land that lie kilometers apart. As a result it becomes extremely difficult to draw municipal boundaries, and the demarcation of traditional authority land into different municipalities becomes unmaintained. The constitution confuses demarcation matters to a deliberate misinformation campaign by force bent on sowing mistrust and deflecting the transformation of local government.

Demarcation is about the determination of the jurisdiction of municipalities, not about the demarcation of land or redrawing of political border over the traditional land. Apart from the constitution, there are two pieces of legislation that deal with the role of traditional authorities. The Local Government Municipal Structure Act of 1998 provides for

participation of traditional leaders in the affairs of a municipality. The Act requires a municipality to consult with traditional authority on any matter that directly affects the power on any matter that directly affects the power or jurisdiction of a traditional leader. The same Act of 1998 also requires the demarcation board to take into account areas falling under traditional leaders when it determines the demarcation of municipal boundaries. It is on the basis of this Act that the board adopts a policy position not to interfere with traditional authority land unless the situation so dictates (Malt, 2000, p. 1-4).

Conclusion

The role and function of traditional leaders in the Republic of South Africa undeniably needs the government's unbiased attention. This will somehow reduce or completely do away with the daily tensions that the traditional leaders, the civic organizers and the local councilors find themselves in. The Department of Constitutional Affairs has a duty to design and implement policies that will enable traditional leaders, elected councilors and civic leaders to work together on developmental programs and other social issues that are of vital importance to their areas. Inequalities are found in almost all societies, and even though not quite inevitable they offer a wide range for comparative treatment. The fate of traditional leaders is in the hands of all people who still embrace their culture, their language, and the historical context of their past, present, and future.

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