
Barbara Oomen’s excellent book, Chiefs in South Africa: Law, Power & Culture in the Post-Apartheid Era, is an ambitious study that very well elucidates a perplexing phenomenon regarding traditional leadership and democratization in South Africa. For example, with the release of Nelson Mandela from prison and the rise of the African National Congress, the new wave of politicians championed the notions of “wall to wall democracy” and “one man one vote” notions. Yet, the South African national leadership has been steadfast in its recognition of the administrative functions of un-elected traditional chiefs as well as the connected importance of customary law.

Oomen points out how the national government continues to use misguided apartheid-era tribal assumptions as a basis for their policy on traditional leadership. In the introduction, the author states the rather large queries she strives to answer in subsequent chapters: “…what was the relation between the changing legal and socio-political positions of traditional authority and customary law…; why was this so and what does it teach us about the interrelation between laws, politics, and culture in the post-modern world?”

By meticulously accumulating data on the opinions of a wide array of political actors in the Sekhukhune district of South Africa’s Northern Province, she captures the nuance and complexity in explaining the traditional power relations on the ground in rural South Africa. While the statistical data is informative as well as important, I believe there remain two noteworthy weaknesses: the lack of clear-cut policy recommendations and a lack of analysis addressing the global implications of her results.

Aside from describing methodology and questions to be answered, the book’s Introduction serves to frame the South African situation with tribal leadership into a global context. Oomen discusses the post modern trend of the weakening of the nation state as the sole broker of power. Non-governmental organizations and local politics play a system of give and take with the nation that has led to the rise of group rights, cultural rights, and state sanctioned diversity initiatives. Couched within globalized group rights’ rhetoric, Oomen argues that South African traditional leaders have used the legal method to maintain power. The irony of this is that, under apartheid, much of the same multi-cultural logic was used to justify the legal division of groups into racial geographic boundaries, and ethnic ‘home-lands.’ Under apartheid it was deemed inhumane and insensitive to rural, tribal, ways of life to impose Western governmental and legal structures. Thus, the legal boundaries of apartheid were set to ‘preserve’ culture. As sole conduits to the state apparatus during apartheid, chiefs have much to lose under democratization.

Switching to more general national politics, Chapter 2 delves into the debate surrounding the role of traditional leadership and law during the drafting of the South African Constitution and the Bill of Rights. Much of the details of the specific role of chiefs are purposely avoided by politicos. As a result, after the passing of the Constitution in 2000, much of the same apartheid laws concerning chiefs remain in effect, dating back to the 1913 Land Acts and the 1927 Black Administration Act. Government efforts to reform land laws through restitution and redistribution in the rural areas have met stiff opposition from traditional leadership interest groups such as the Contralesa.

In particular, the Bill of Rights was seen as a major threat to customary judicial systems. Certain local practices, especially in regards to the rights of women to own land, would be deemed incongruous with the Bill of Rights. Chiefs feared a liberalized legal framework was being constructed that would curtail their traditional powers concerning the distribution of
land and justice. Ultimately, the chiefs could not exempt local tradition from the Bill of Rights but were able to successfully maintain much of their administrative and judicial functions of the past by taking advantage of ambiguous legal language.

After getting a general sense of the chief’s success, Chapter 3 looks out how they attained their position. The lack of a resounding numerical majority to unilaterally pass legislation on the part of the ANC worked in favor of traditional leadership. Consequently, national leaders were required to perform a level of political compromise. The chiefs’ ability to organize themselves into a collective political bloc also enhanced their ability to broker power. The ANC recognized the logistical benefits of the existing administrative and judicial set-up run by the chiefs. National government departments often view chiefs as convenient ‘one stop shops’ for a variety of administrative issues concerning things like land use, and agriculture. Above all, Oomen argues that the perpetuation of traditional authority is also a consequence of their monopoly concerning definitions. Despite various actors trying to use traditional customs to suit their varied and individual needs, the chiefs themselves try to maintain the privilege of having the final authority on what actually is crystallized into official customary law.

Also, Oomen gives an historical synopsis of Sekhukhune. In doing so, one gets a sense of the many political actors involved in the traditional leadership debate. There are, for example, elected local officials whom fall under Transitional Local Council (TLC) governmental apparatus. After 1995, TLCs were formed in the rural areas to bring elected government to the former ‘homelands.’ The presence of the TLC irritates chiefs greatly, and Oomen repeatedly uses the ‘two bulls in one kraal’ metaphor to describe their antagonism towards one another. Another faction, referred to as the civics, is described as encompassing grass-roots groups who organize to accomplish specific community improvement projects.

Thirdly, the profitable local vigilante group Mapago a Mathamaga have a vested interest in the debate over authority because their success and continuation relies on a degree of judicial inefficiency. Next, the Zionist Christian Church in Sekhukhune provides a great deal of support to existing traditional leaders through their stress of biblical obedience to authority. Lastly, migrant workers comprise an influential faction. Being far from home for long periods of time, they are often the most supportive of the chiefs because of a nostalgic desire to maintain things while they are away in the city or mines. Oomen concludes by pointing out the benefits at stake: land, minerals, autonomy, tax money, and meaning.

After reviewing the leading political actors and the benefits awaiting them, Chapter 5 is used to explain the statistical data accumulated in the region in an effort to understand the wide range of opinions in regards to chiefly legitimacy amongst the people. Information about Hoepakranz, Mamone, and Ga-Masha, three specific areas within Sekhukhune, provide insight. Overall an astounding 80 percent of residents indicated support for traditional leaders. Oomen takes this further, and investigates how and why those surveyed answered the way they did. In the three case studies, demographics are a good indicator in predicting the reasons for chiefly support. Hoepakranz is a remote area with little outside interaction with democratic structures. As a result of their remoteness, tribal authority is supported because there is no alternative. In Ga-Masha where the TLC has some access, the chief derives his power from positioning himself as the less complicated liaison to larger government structures. Mamone is a higher populated area that has the largest degree of TLC presence and access to outside knowledge. As a result, the chief has been forced to adapt by supporting a tribal constitution and focusing more on accepted cultural and day to day judicial duties. In all the locals, the support for chiefs did not usually manifest itself in a material form. Rather, people displayed their support for chiefly legitimacy by going to him