

Abstract

DEMOCRATIZATION, TRADITIONAL AUTHORITIES AND LAND RIGHTS IN SOUTH AFRICA

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The liberation of Mandela signalled the end of apartheid and the dawn of democracy. However the global context within which white power came to an end and the compromises made to achieve a democratic political transition imposed several limitations on the overall democratization process. The structures of economic power, the nature of international capitalist pressures, the poverty of African people deskilled by a segregated labour market and by Bantu education all inhibited the strategic choices available. In this context, democratic structures were grafted onto a social formation strongly defined by inequality, injustices and deprivation.

The paper aims to unveil the relationship between democracy and the traditional authorities in South Africa after 15 years of political democratic transition. Specifically it will at first focus on the political and economic conditions, national and international, which shaped the negotiation terrain, and then it will move towards understanding the specific version of democracy articulated. This period, the paper argues, may be defined as a movement from a politics of struggle proper of the mass-based liberation practice to a more prosaic business of administration with its compromises and concessions to conflicts of interest and personalities. One where too much was conceded to the old structures of privilege and the demands of global capitalism. Principles of egalitarianism and social justice were sidelined in search for competition and economic growth while fundamental structural reforms were marginalized in the political agenda in favour of a neo-liberal politics of property rights protection, law and order. The primacy given to the market produced another unwelcomed effect: the use of public resources for private accumulation creating a black capitalist class, which is joining the old centre of white privilege.

The paper will then explore the contradictions involved in the democratization process by the recognition of chiefly power in the rural areas by ANC government. Here land allocation is still absolute appanage of unelected and unaccountable Traditional Authorities. This lends itself to clientelism and corruption. Current interest reinvigorating the system of Traditional Authorities in order to reduce the cost to government promises to be devastating to the long-term goals of democratic government.

This shift, embodied into two legislative acts, the Traditional Leadership and Governance Framework Act (No 41 of 2003) and the Communal Land Rights Act (No 11 of 2004), will result in the future constitutional protection of Tribal Authorities that were established, often in the teeth of popular opposition, by one of the legal foundations of Apartheid, the Bantu Authorities Act of 1950.

The power of chiefs on their subordinates in the former reserve territories of colonial Africa lies in their power over land allocation, and it is the resurrection and preservation of this power in the democracy which is ambiguously reducing participation in the rural areas. The ANC-led government has ended up giving powers to traditional authorities on pretty much the same lines as its predecessor, the apartheid state.

Finally through the prism of land tenure rights in the ex Bantustans, the paper will disclose the inherently contradictory nature of the current democratic dispensation, captured in the tension implicit in trying to establish popular and participatory democratic institutions while continuing recognizing unaccountable and undemocratic structures.