

Democracy compromised: Chiefs and the politics of land in South Africa

Lungisile Ntsebeza
(Cape Town: HSRC Press, 2006, x +297pp.
ISBN 0 7969 2130 X)

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Lungisile Ntsebeza has made a name for himself in academic circles – both in South Africa and abroad – through his courage in tackling topical issues and his scholarly engagement with some sensitive topics. He presents his views on land and the role of traditional leadership institutions in a democracy with brevity. Different stakeholders throughout the African continent generally concede that traditional leaders are part and parcel of modern governance and therefore cannot be ignored. Consequently, the debate is gradually shifting from whether or not they should be retained in a democracy to how they could function in the modern system of governance. However, Ntsebeza questions the very notion of incorporating the institution of traditional leadership in a democracy. For him, traditional leadership and democracy are antithetical to each other. Implicit in this submission is that traditional and democratically elected leaders cannot co-exist.

Ntsebeza's overall argument is encapsulated in the title of his work *Democracy Compromised*. In essence, he argues that resuscitating traditional leaders in modern governance wittingly or unwittingly compromises democracy. He bases this trajectory on the fact that these leaders are not elected into positions of power but assume such positions by virtue of birth and are therefore not accountable to anyone. Ntsebeza's work presents another angle from which the current process of redefining the role of traditional leaders in post-colonial and post-apartheid Africa could be viewed. Contrary to the resolution of a recent international conference held in Durban (25-26 October 2007) that there must be a continental approach to the question of redefining the role of traditional leaders in a democracy, Ntsebeza's work argues that it is not necessary to entertain such a thought in the first place if democracy is to survive.

To be sure, Ntsebeza argues from a well informed position and is not apologetic about the views he espouses. He states that his book “is about traditional authorities in a democracy” (p.3). He uses the Xhalanga District as an avenue to enter into a bigger debate regarding the possible coexistence between traditional and democratically elected leaders both in the South African and broader African contexts. Ntsebeza analyses the Traditional Leadership and Governance Framework Act and the Communal Land Rights Act, both promulgated in 2003, as well as the South African Constitution. He then contends that “upholding a Constitution that enshrines democratic principles in the Bill of Rights, whilst acknowledging a political and developmental role, or roles, for un-elected and unaccountable traditional authorities...is inconsistent and contradictory” (pp.15-16).

Ntsebeza’s familiarity with a number of key debates regarding the issue of traditional leadership and democracy is evident. This is reflected in his succinct summary of those debates (pp.17-31). He is also well informed about the chronology regarding the evolution of the institution of traditional leadership and the changes that characterised different historical moments such as colonialism, indirect rule and apartheid.

But what distinguishes *Democracy Compromised* from other works on the same topic is the manner in which Ntsebeza portrays traditional leaders. Instead of presenting them as freedom fighters who were at the vanguard of the liberation struggle, he views them as accomplices of the colonial interlopers. The two Acts passed in 2003 are generally applauded for defining the role of traditional leaders in a democratic South Africa. Ntsebeza blames these Acts for taking the country backwards. He attacks the Communal Land Rights Act for “effectively resuscitating the powers they enjoyed under the notorious Bantu Authorities Act of 1951 which was introduced by the apartheid regime” (p.14). He goes on to say that traditional leaders joined hands with the apartheid state to exercise control over black rural communities. Consequently, when black resistance re-emerged in the late 1980s and early 1990s in the rural areas, “the target was often Tribal Authorities and the issue was the authoritarian and despotic nature of these authorities particularly with regard to land allocation” (p.14). This presents traditional leaders as anti-democracy. Therefore, looking at the situation from this vintage point Ntsebeza tacitly argues that it would be impossible for traditional leaders to promote democracy, a system that would potentially deprive them of their despotic powers.

In conclusion, Ntsebeza's work is timely, not because the views he espouses can easily be implemented but because it takes a different trajectory. It is views such as his that will enable African leaders to think carefully as they embark on the relentless and tedious journey towards finding a place for traditional leaders in post-colonial and post-apartheid governance in Africa.

There is no doubt whatsoever that Ntsebeza has amassed knowledge on this subject. He articulates his thesis boldly and buttresses his submission by referring to evident and conspicuous contradictions. But to what extent can the arguments advanced in *Democracy Compromised* be implemented in post-apartheid South Africa? This is the most intriguing question Ntsebeza's work forces the reader to ruminate about.

Basically there are two parallel issues at play here. On the one hand is a call to work towards an ideal situation whereby the democratic ethos and democratic principles would be entrenched in the minds of all stakeholders so that there could be no (South) African conception of democracy that accommodates un-elected traditional leaders. This is the call *Democracy Compromised* is making. On the other hand is an appeal for a pragmatic approach to the conceptualisation of democracy. This view can be gauged both in the 1996 South African Constitution and in the two Acts enacted in 2003.

By all accounts, Ntsebeza's argument has merits. Not only is it logical, it is also aptly substantiated. However, it would be intractable to implement it for a variety of reasons. For example, before assuming power, the ANC was portrayed as an organization that was opposed to traditional leaders. To counter this portrayal, the ANC made public pronouncements that the institution of traditional leadership would have a place in its government. The establishment of the Congress of Traditional Leaders of South Africa (CONTRALESAs) and the House of Traditional Leaders (HTL) was a way of dissuading those who were using the uncertainty of traditional leaders about their future to score political points. The two Acts enacted in 2003 derived from this political context.

Moreover, South Africa is not the first country to face the debate regarding the fate of traditional leaders in a democracy. Other African countries tried in vain to abolish them. Ntsebeza acknowledges this reality thus: "Studies conducted in countries such as Mozambique, for example, reveal that despite

New Contree, No. 54 (November 2007)

attempts by various post-colonial governments to marginalize and even abolish traditional authorities, the latter remained a force that could not be ignored when multiparty democracy and decentralisation were introduced in the early 1990s” (p.16). So, the will to abolish the institution of traditional leadership and the inability to do so continue to wrestle with each other for supremacy.