

**The Ward System: Redefining chiefly jurisdiction in the Lower Tugela Division (LTD) of Natal, 1906-1909**

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**Introduction**

In February 1908, the Governor of Natal, Colonel Sir Mathew Nathan, with the powers bestowed on him by colonial statutes as the ‘Supreme Chief’ of the ‘Native population’, approved the adoption of the ‘Ward System’ in the Lower Tugela Division (LTD). Described by its main proponents as ‘tribal reorganisation’, the intention was to redefine chiefly authority: from ‘personal to territorial.’ Such interference in the Native political establishment, ranging from setting up chiefdoms to destroying them and redefining borders, did not begin or end with the ward system; nor was it a phenomenon confined only to the South of the Tugela River part of the British Empire. Indeed, there was a clear connection between the latest manoeuvre and the events of the 1906 Maphumulo Uprising. The ward system reduced the number of chiefs in the division from nineteen to nine and ultimately eleven. Given the background, it is logical to locate these developments within the context of ‘indirect rule’ and to see the scheme as further attempts to deal with the constant ‘headache’: the ‘Native question.’ However, it is not sufficient to stop there.

An analysis of the ward system which merely views it as yet another manoeuvre to control the natives, runs the risk of overlooking the prevailing interconnected conditions and events within the division, the colony and outside informing the ‘tribal readjustment’ in its particular design and implementation. Furthermore, seeing the scheme from a teleological perspective which sees uniformity in colonial administration has the potential to cloud the intended massive political implications of the ward system. Moreover, there is also the danger to miss out on the interconnected conditions making it implementable in the form approved by the Governor and the clear connection between the scheme and the recommendations of the Natal Native Affairs Commission.

The Natal Native Affairs Commission (1906-7) constituted to “enquire into and report upon matters concerning Native policy and administration, and legislation affecting Natives” noted in its 1907 report:

It is remarkable that, at this date, after more than sixty years of occupation, we should still be in search of the best methods of governing the Natives. The deserts of the Government are evidenced by the number of questions it may be burdened with, or be endeavouring, more or less successfully to settle or by the growing discontent of a section of people. Why should we have an unsettled perplexing “Native Question” in more or less acute state, and why should its solution apparently be more remote and uncertain than ever?<sup>1</sup>

On the authority of chiefs, the commissioners’ recommendations were that:

As peace officers responsible for the preservation of peace and order in their respective tribes...a means would be created of weakening allegiance to the hereditary head of the clan, if their jurisdiction were territorial, rather than personal, a means would thereby be created of weakening allegiance to the hereditary head of the clan. They should be chosen with regard to personal fitness as well as by virtue of decent, and be deposed for unfitness or malpractices of any kind.<sup>2</sup>

Writing to the Minister for Native Affairs, Sir Frederick Moor, the Undersecretary for Native Affairs, S.O. Samuelson, was quick to point out that “the advice tendered (above) having been the rule for nearly all time in the Native administration of this Colony.”<sup>3</sup> Historically, there is so much evidence corroborating this statement. In this correspondence, Samuelson added his support for the proposed plan: “I recommend that it (the ward system) be adopted in the Lower Tugela Division on the lines, generally, recommended by the Magistrate, supported by Col. Addison<sup>4</sup>, an authority by virtue of lifelong residence in this Division in all matters affecting the Natives thereof, and taken together with my present report.”<sup>5</sup> While the above ‘reminder’ to Moor on the eve of the introduction of the ward system, might suggest continuity of a uniform nature in colonial administration, a correspondence to Nathan suggests otherwise:

In view of the utter disorganisation of the tribal system in the Lower Tugela Division by the incidents of the Rebellion of 1906, an opportunity has been presented of bringing the tribal government of the Natives in that Division within defined limits, so that each ward shall be under its own Chief having no jurisdiction over person outside of that ward. After approval of

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<sup>1</sup> *Report of Native Affairs Commission, 1906-7*, Section 25.

<sup>2</sup> *Report of Native Affairs Commission, 1906-7*, page 18-19.

<sup>3</sup> SNA, 1/1/374, 2229/1907, Samuelson to Moor, 07 January 1907.

<sup>4</sup> For more on this family name see Abbott Ayres and Shelagh O’Byrne Spence, *British Settlers in Natal, 1824-1857: A biographical Register* (Pietermaritzburg: University of Natal Press, 1981) page 14-15.

<sup>5</sup> Samuelson to Moor, 07 January 1907.

the Wards by Your Excellency, the appointment of Chiefs in each Ward will then be taken in hand.<sup>6</sup>

In this paper, drawing from the historiography of Natal and the region; and making use of primary material emanating from the colonial and early stages of the segregation era, I discuss the ward system and the impact of the intended redefinition of chiefly/subject relationship, from ‘personal to territorial’

The availability of ‘loyal’ chiefs which the plan was dependent on, and that the “various tribes in this division are mixed up one with the other were amongst the factors taken into account.”<sup>7</sup> And rendering this situation undesirable was, mainly, the events and the aftermath of the Maphumulo Uprising. Macabacaba *ka* Magekeni, found guilty of the murder and mutilation of Oliver Veal, an *induna* of the Qwabe section in the Ndwedwe district and a number of other subjects of the chiefdom had come from other divisions to attend the ‘war doctoring’ ceremony at Meseni’s homestead in Maphumulo, Mthandeni.<sup>8</sup> I am arguing that to a large extent, policy and legislation, having a profound impact, aimed at keeping the ruled in check and ensuring that rule over them was with as minimal predicaments as possible, were shaped and had to take into account such circumstances.

For my MA thesis, I am researching the institution of *ubukhosi*, chieftainship, or ‘traditional authority’—as some prefer to call it—concentrating on the key reasons behind its continued survival with a particular focus on two chiefdoms, the Luthuli and the Magwaza in Maphumulo, north of Durban. In the overall research I am adopting a similar hypothesis as in this paper. While not overlooking historical factors, I argue that the institution of *ubukhosi* is largely shaped, forced to mutate and adapt and necessitated, to a large extent, by the contemporary. The argument, therefore, is rooted in Marx and Engels’ ‘dialectical materialism’ as opposed to the Hegelian ‘dialectical idealism’ behind the argument of many ‘Chieftaincy abolitionists’, scholarly and others, including Ntsebeza, who, for a number of rational reasons, see the continued preservation and protection, through legislation and otherwise of the hereditary institution of *ubukhosi* contradicting, not only South Africa’s internationally acclaimed ‘1996 Constitution, but a number of other democratic legislations.

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<sup>6</sup> SNA, 1/1/374, 2229/1907 Secretary for Native Affairs to Nathan, 9 January 1908.

<sup>7</sup> SNA 1/1/374, 2229/1907, Samuelson to Nathan, 9 January 1908.

<sup>8</sup> Jeff Guy, *The Maphumulo Uprising: War, Law and Ritual in the Zulu Rebellion* (Scottsville: University of KwaZulu-Natal Press, 2005) 93.

But, behind this view is the misperception that post ‘progressive’ post apartheid legislators should have, or must, abolish the ‘undemocratic’ and ‘non-progressive’ institution of chieftainship. And its ‘non-progressive’ character can be demonstrated historically. There are some serious limitations with this type of thinking. Legislation is completely isolated from material conditions informing its design. Legislation and policy, largely, evolve from material forces that shape and impact on it and not just from ‘wonderful ideas.’ Critical to stress, though, is the role played by the hegemonic, in Gramscian terms, ideological orientation espoused by policy makers.

### **The Ward System, 1906-9**

Maphumulo became a magisterial division, separate from the Lower Tugela division in the last decade of the nineteenth century. The Magwaza and the Luthuli people are currently involved in a land dispute being arbitrated by the Land Claims Commission (LCC) which is what has inspired the MA topic.<sup>9</sup> In the 1890s, both polities receive new chiefs, albeit, under very different circumstances. Guzana, also spelt ‘Guwuzana’, ka Seketwayo Magwaza, formerly an *induna* under chief Musi ka Godolozu, was appointed chief, under the colonial laws’ provisions, effectively giving birth to the Magwaza chieftainship. Njubanjuba, sometimes spelt ‘Jubanjuba’, ka Wojiwoji Luthuli, still at a very young age, ascends to the throne of the Luthuli in succession to his late father Wojiwoji ka Sibukeyana. The Luthuli people occupied mostly the area facing the northern part of the Isidumbini Mountain.<sup>10</sup>

The recommendations of the Commission were looked into by members of the Department of Native Affairs with the aim of converting some into legislation which happened in 1909 in the form of Act No. 1 of 1909—Act for the Better Administration of Native Affairs—after being passed by the Natal Legislative Assembly. In the meantime, before the legislation, some of its recommendations were seriously considered in the planning around native administration. The ward system was a case in point. While ‘tribalism’ was identified as a problem, there was no illusion that the redefinition of chiefly jurisdiction from ‘personal to territorial’ as manifesting itself in the ward system would have an immediate impact. There was a long term vision attached to the plan.<sup>11</sup> It was hoped the tribal system would “silently disintegrate unobserved” as a result of closer “supervision and regulation.” Any attempt to, it

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<sup>9</sup> *Ilanga langoSonto*, March 02, 2008.

<sup>10</sup> Magistrate Impendhle to Lieutenant Colonel Leuchars, Greytown, 22 February 1906.

<sup>11</sup> Shula Marks, *Reluctant Rebellion: The 1906-08 disturbances in Natal* (Oxford: Clarendon Press, 1970) 342-3.

was warned, “sweep it away would be suicidal and lead to worse evil than now surrounds it.”<sup>12</sup>

In the colony of Natal, ‘indirect rule’ was executed with the cooption of chiefs, some hereditary and others appointed. The law to be applied amongst the native population was ‘Native law’, codified for the first time only in 1878, which the colonial officials saw as being premised on African customs. And its genesis is traceable back to the Locations Commission report of 1847. This saw the establishment of magisterial districts/divisions with a resident Magistrate who in the colonial hierarchy was accountable to the Secretary for Native Affairs and the Lieutenant-Governor, the Supreme Chief for the Natives under the ‘Shepstone system’, as indirect rule came to be known in this colony of the British Empire. *Izinduna*, headmen and *amakhosi*, chiefs, in their new ‘comprador’ role, were accountable to the magistrate who also presided over more serious cases taking place in the division.<sup>13</sup>

Until 1894, a year after responsible government, the Lower Tugela division consisted of a reserve section further inland; and private owned lands on the coastal side. A separate Maphumulo ‘Magistracy’, previously under a Native Administrator<sup>14</sup>, was created off the African reserve section of the division. The LTD magistracy remained, but now only consisting of privately owned land with African, ‘squatters’, labour tenants and rent paying under jurisdiction of a number of chiefs. Falling under Luthuli, were 12 homesteads, between uMhlali and the Tongaat.

In 1895, a year after its creation, as the resident Magistrate, W.R. Gordon revealed in his annual report, the magistracy was still struggling to function effectively and still without some of the required operational resources and infrastructure, including buildings, such as offices for the Magistrate, courts and goal. The boundaries remained largely unchanged. Only the western and northern borders were altered. The area constituting the new division was given as follows:

The whole of the Norwegian Mission Lands, known as the Umpumulo, and formerly in the Krantzkop Division, were brought into the Maphumulo Division. By this arrangement, the former boundary dividing this Division was considerably altered from its original clearly

<sup>12</sup> Don Africana Library, Durban, Native Affairs Commission Report, 1906-07, 16.

<sup>13</sup> Norman Etherington ‘The Shepstone system’ in the Colony of Natal and beyond the borders’ in Andrew Duminy and Bill guest’s (eds.) *Natal and Zululand: from earliest Times to 1910*, (Pietermaritzburg: University of Natal Press, 1989), 172-3.

<sup>14</sup> Killie Campbell Africana Library, *Natal Blue Book*, 1895-95, Annual report of the Magistrate, Mapumulo Division, W.R. Gordon, for the year ended June 30, 1895.B81-83.

defined boundary. I must here explain that there are two Mission Stations adjoining each other. The one is Umpumulo, and belongs to the Norwegian Mission Society, and is in extent 12,000 acres. The other is the Mapumulo, and belongs to the American Mission, and has 8 000 acres, all of which have a large number of station Natives. Besides these two Missions there is the Isidumbini, which is in extent 8, 000 acres. The Otimati is 25 acres, and Noodsberg 30 acres. In all 30, 05 acres have been reserved for Mission purposes in this Division.<sup>15</sup>

Because of its location right on the border of the colony of Natal and the independent Zulu Kingdom, the LTD had always been regarded as a ‘conduit.’ It had been always regarded as a ‘conduit’ between the colony and the independent Zulu Kingdom. It was the main ‘entry point’ for people and ‘refugees’, entering the colony from Zululand and vice versa. As a result of its ‘border division status’ it had always been the most populated. Mainly people dissatisfied with the political and other repercussions of the ‘destruction of the Zulu Kingdom’ entered the colony post 1879. Also, the period following the destruction of the Zulu Kingdom also made it easier for some people to migrate to Zululand to look to long lost loved ones to bring back into the colony.<sup>16</sup>

A factor in the decision to establish a separate magistracy was the land shortage situation affecting mainly Africans who had previously either lived as tenants on private owned land or as squatters on Crown Lands. Rising market values and prospects for profit making amongst land owners caused by demand for farming land amongst Europeans farmers saw the eviction of many squatters. This should also be understood in the backdrop of the colonial government’s introduction of rent to people squatting on Crown Lands with another round of Crown Land sales in the 1890s.<sup>17</sup>

The defining of boundaries for the newly established division was done in 1897. *Inter alia*, the new boundaries were seen as a solution to the ongoing Qwabe succession dispute and the associated ‘factional fights’ which were increasingly involving members of other polities. In their design, these were taken into consideration. The realignment of boundaries did not go down well with a number of chiefs since the new boundaries rescinded their authority over some ‘kraals’ and huts, effectively people. One of the chiefs to lodge a complaint with the

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<sup>15</sup> *Natal Native Blue Book*, 1895-95, Annual report of the Magistrate, Mapumulo Division, year ended June 30.

<sup>16</sup> See Michael Robert Mahoney’s *Between the Zulu King and the Great White Chief: Political Culture in a Natal Chieftdom, 1879-1906*, unpublished PHD thesis, 1998.

<sup>17</sup> Michael Lambert, *Betrayed Trust: Africans and the State in Colonial Natal* (Pietermaritzburg: University of Natal Press, 1995) pages 110-113.

authorities was chief Deliweyo. Among other things”, the resident magistrate of Maphumulo said in a letter to the Pietermaritzburg colonial office, “he states he considers the Insuze River and not the Nyazi Stream should have formed the boundary in one place, and that the Bonjwana Peak should have been included in his location.”<sup>18</sup>

In addition to massive killing and slaughter of ‘rebellious’ Africans by the colonial state machinery during the uprising; and statutory murders imposed by the courts through the laws of the time, the natives also had to be taught a lesson. Guy has looked at how the law in the courts was used to ‘deal’ with the ‘troublesome’ natives. The establishment of wards and the appointment of chiefs to take charge of the newly established wards were also done according to the law. Wards were proposed with boundaries being “rivers, streams or public roads which cannot be mistaken and which are permanent.”<sup>19</sup> And the Governor, using the ‘despotic’<sup>20</sup> powers vested on him by colonial laws approved the scheme in 1908, two years following the initial proposals. “I recommend”, said the Minister in a letter to the Governor recommending the approval of the plan, “approval by Your Excellency thereof under powers vested in Your Excellency by Section 54 of the Courts Act 1898.”<sup>21</sup>

The former magistrate of the LTD, Mr. F.P. Shuter, before taking up a post in Johannesburg as the Transvaal Agent—who, had vast knowledge of the region and had acted as chief over the Nkwenkwezi and the eMthandeni sections of the Qwabe<sup>22</sup>, took into account the organisation of African chiefdoms and domiciles of chiefs in the division in his recommendations to the Governor regarding the creation of wards. Since, unlike in any other division, many natives ‘rebelled’ in 1906, this “in itself affords a pretext and gives good ground for an all round re-adjustments.”<sup>23</sup>

The African custom of *ukukhonza*<sup>24</sup> was based on a ‘personal’ relationship between the chief and the subjects which requires some understanding of the entire system of land ownership in pre colonial African societies with the king or chief as the custodian of the land on behalf

<sup>18</sup> SNA, 57/89, Magistrate of Maphumulo writing to the Secretary for Native Affairs, September 25, 1899.

<sup>19</sup> SNA 1/1/374, 2229/1907, Samuelson to the Minister for Native Affairs, 07 January 1907.

<sup>20</sup> See Mamdani *Citizen and Subject: Contemporary Africa and the legacy of late colonialism* (Kampala, Uganda: Fountain Press, 1996) for a discussion on the ‘despotic’ powers vested of the Governor as ‘Supreme Chief’

<sup>21</sup> SNA 1/1374, 222/1907, Minister to Governor, 9 January 1908.

<sup>22</sup> Chief Meseni of the eMthandeni section of the Qwabe had been deposed following the Maphumulo Uprising. Acting chief Ntshingumuzi had also been found guilty of war doctoring during the uprising.

<sup>23</sup> SNA, 1/1/374, 2229/07, Samuelson to the Minister for Native (name) Affairs, 7 January 1907.

<sup>24</sup> C. De Webb, J.B. Wright (eds.) *The James Stuart Archive, Volume Two* (Pietermaritzburg: University of Natal Press, Durban: Killie Campbell Africana Library, 1979), xx, *Ukukhonza* is describes as ‘To give one’s allegiance to, or subject oneself to, a king or chief; to pay formal respects’

of the chiefdom and its people. I have found Gluxman, Stuart and Bryant very useful in their discussion of the character of the nature of chiefly/subject relationship and the overall social and political system of some pre capitalist African societies. Looking at the situation amongst the Lozi people of the Zambezi , whose land tenure system resembled to a great degree that of other ‘agriculturists’ societies, Gluxman looks at the obligations on both sides, with inkosi obliged to provide land to whomever came to *khonza*. Of course, there were obligations on the side of the subject too, including giving “service and tribute” to the king.<sup>25</sup> This, somehow, paints a picture of a ‘mutually beneficial symbiotic’ relationship between the chief and the people falling under his authority.

L.P. Mair, on the relationship between *inkosi* and *abantu*, looking at the Baganda, found in present day Uganda, states, “Generosity was expected of a chief and was the best way to increase his following; and on the size of his following depended wealth, prestige, and promotion to the control over a wider area.”<sup>26</sup> And Bryant, focusing on the Zulu people and the ‘communal’ system of land ownership—also practised by African communities living South of the Tugela river—juxtaposes land relations in pre colonial Zulu societies with the property rights of so-called ‘civilised’ societies and argue that these notions which were now being imposed on the natives were alien to them; and even goes as far as questioning the supposed ‘progressiveness’ attributes of the ‘new’ colonial system.<sup>27</sup>

In the statements and testimonies collected by James Stuart about the Zulu and neighbouring peoples’ way of life, many prominent African witnesses shed some light on *ukukhonza*. Mayinga ka Mbekuzana who had fought in the 1856 war of succession between Cetshwayo and Mbuyazi on Cetshwayo’s side said, “The whole land is the king’s. No one objected to its being lived on. Members of any given tribe might separate from the tribe and live on land they fancied, even though at a distance. Manqondo, for instance, was chief of the Magwaza tribe living opposite Nkandhla Mountain, and yet members of this tribe lived at the Mpapala, i.e. with a tribe or two between them and their chief. And so with Golide ka Ndhlela who lived *up the Nsuze near Qudeni*; whereas Mavumengwana and Zinti came and built at the

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<sup>25</sup> Max Gluckman, *Politics, Law and Ritual in Tribal Society*, (Oxford: Basil Blackwell, 1967), 36-48.

<sup>26</sup> L.P Mair, ‘Chieftainship in Modern Africa’. *Africa: Journal of International African Studies*, Vol. 9, No. 3, 1936.

<sup>27</sup> A.T. Bryant, *The Zulu people as they were before the white man came* (Pietermaritzburg: Shuter and Shooter, 1949), 464.



Mpapala. This separation is not due to quarrelling but simply to inclination. *No district (isigodi) ever became full.*<sup>28</sup>

Nonetheless, it should be noted that the relationship between king and subject was not always on good terms, at times it did break down and there were mechanisms in place to deal with this. “It would occur” said Ndukwana at times that a man would be dissatisfied about something. The King might then give him permission or direct him to go and live at some other place.”<sup>29</sup>

Indeed, with ‘indirect rule’ and the role of chiefs in society being undermined and reduced to that of mere salaried agents of the colonial state and colonialism induced land shortage problem, accompanied by rising populations, this relationship is impacted on; but, for those Africans falling under chiefly rule, it still held with some adjustments and was still a crucial element of their relationship with their chiefs, even at the start of the nineteenth century.<sup>30</sup>

Nonetheless, the manner in which the ‘reorganising’ was being implemented in 1908 was unparalleled and this was apparent in the planning and conceptualisation of the scheme which begins a few months following the Maphumulo Uprising and the Native Affairs Commission whose recommendations regarding wards and ‘tribal concentration’ with ‘some manageable standards’ were used as the guidelines As Samuelson pointed out, the ward system, therefore aimed to put an end to the situation where tribes in the LTD ‘were mixed up one with the other.’<sup>31</sup>

Interestingly, for almost similar reasons, a decade earlier, in the Cape, the colonial administrators were also struggling with how to resolve their own ‘native question’. In the light of their experience, the solution was to also to eradicate ‘tribalism’ seen as having a bad influence and behind native resistance to colonialism. In the Cape system of indirect rule, hereditary chiefs were done away with in favour of appointed headmen to be accountable not to the ‘Supreme Chief’ as in Natal, but the High Commissioner. And the entire system of ‘indirect rule’ as adopted in the Cape juxtaposed with the one in Natal exposes shortcomings with any notion of ‘uniformity’ in colonial administration; and acts to give credence to the

<sup>28</sup> de Webb and Wright *The James Stuart Archives, Volume Two*, 257.

<sup>29</sup> C. De Webb and J.B. Wright (eds.) *The James Stuart Archive, Volume Four* (Pietermaritzburg: University of Natal Press, Durban: Killie Campbell Africana Library, 1986) statement by Ndukwana, 313.

<sup>30</sup> See also Marks *Reluctant Rebellion* for an insight on ‘Continuity and change in African Society’ due to colonialism, pages 27-51.

<sup>31</sup> SNA, 1/1/374, 222/1907, Samuelson to the Moor,

argument I am advancing in this paper.<sup>32</sup> Samuelson quoted from the recommendations of the Native Affairs Commission:

Tribes or portions of tribes are of all dimensions—some are too large and others are too small and their areas are scattered and ill-defined. Concentration is recommended, with some manageable standards of size<sup>33</sup>

Making it urgent to execute the plan was the aftermath of the Maphumulo Uprising where some chiefs had been deposed and chieftaincies disseminated, thus affecting numerous administrative activities, including tax collection. And, indeed, the ‘redrawing’ of boundaries within and between chiefdoms which the powers that be insisted should not proceed until the appointment of a new Magistrate for the division, proved administratively useful.<sup>34</sup> Quite a number of correspondence exchanged hands between, amongst others, the former Magistrate of the LTD, the USNA, Minister and the Governor. The correspondence circled around the recommendations of the former resident Magistrate, Shutter. At the beginning of 1908, Moor said:

I concur in the recommendations of the late Magistrate, Lower Tugela Division and the Under Secy. for Native Affairs with regard to the adoption of the Ward system in the Lower Tugela Division. I recommend approval by Your Excellency by Section 54 of the Courts Act 1898. This is in accordance with the views of the Native Affairs Commission.<sup>35</sup>

Nathan response on the same day was “I am prepared to agree to the Lower Tugela Division being divided into 9 wards each under a separate chief and each being inhabited mainly by the tribe of which that chief is the natural head.”<sup>36</sup>

A few weeks later, Moor stressed the urgency in the matter:

Your Excellency no doubt knows that all the tribes in the Colony are composed of a multitude of totems and clans, over only some of whom the Chiefs are natural heads. With these remarks

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<sup>32</sup> See Lungisile Ntsebeza, *Democracy Compromised: Chiefs and the Politics of land in South Africa* (Cape Town: HSRC Press, 2005) and Mamdani *Citizen and Subject* for some useful comparisons between colonial administration in the Cape and Natal.

<sup>33</sup> SNA, 1/1/374, 222/1907, Secretary for Native Affairs to Minister, 9 January 1908.

<sup>34</sup> Marks *Reluctant Rebellion* 356.

<sup>35</sup> Moor to Nathan, January 01 1908.

<sup>36</sup> Nathan to Moor, January 01 1908.

I submit my recommendations for Your Excellency's approval as the Hut Tax collection is approaching, and these matters should then be settled.<sup>37</sup>

Following the Governor's approval, Samuelson wrote to the Secretary for Law Department: "You will observe from these papers that His Excellency the Governor has, under the provisions of Section 54 of the Courts Act 1898, approved of the adoption of the Ward System in the Lower Tugela Division. The Lower Tugela Division is therefore now divided into nine Wards, the boundaries of each Ward being described in the ward plans...Each Ward is to be under one chief"<sup>38</sup> Interestingly, it appears both Moor and Samuelson were not fully aware of the precise legal provision under which the Governor had powers to issue a proclamation giving effect to the scheme and the appointment of chiefs. The Secretary, Law Department had to give clarity, "The proper authority for the proposed action appears to me to be Section 33 of the Code and see the definition of the word "tribe" in section 81. The object of Section 54 of the Courts Act is merely to enable the Governor to define the limits in which particular chiefs shall exercise jurisdiction as courts."<sup>39</sup>

Initially, the Minister had expressed reservation regarding the manner the ward system had been proposed by the former Magistrate of the Lower Tugela Division. He had suggested nine wards, but the Minister felt four or, at the very least, five wards would be sufficient. Shuter's main objection was that reducing the number of wards would negatively affect a number of 'loyal' chiefs. In this sense, 'Loyal' should be viewed within the context of the post 1906 Uprising. Rooting out 'rebels' from 'loyalists' was a very difficult exercise as many subjects 'rebelled' whilst their chiefs remained 'loyal.'<sup>40</sup> While some members of the Magwaza joined the rebels, Guzana's conduct was "very good, (he) was in continuous touch with the authorities, reported immediately any member of the tribe who left and joined the rebels."<sup>41</sup>

By March 1909, the LTD had a total of eleven wards and not nine under eleven chiefs: Msolwa of the Cele (ward 1), Makati of the Ngcobo (ward 3), Makewu of the Dube (ward 5), Martin Luthuli<sup>42</sup> (ward 6), Groutville Mission Reserve, Guzana of the Magwaza (ward

<sup>37</sup> Moor to Nathan, 29 February 1908.

<sup>38</sup> SNA, 1/1/374, 2229/1907, Samuelson to Secretary for Law Department, 9 March 1908.

<sup>39</sup> SNA, 1/1/374, 2229/1907, Secretary for Law Department to Samuelson, 19 March 1908.

<sup>40</sup> Mahoney

<sup>41</sup> SNA 1/1/414, 3263/1908, Replies by the magistrate of Lower Tugela Division to circular by SNA, November 1906.

<sup>42</sup> This Luthuli was the father of Chief Albert John Luthuli who succeeded him to the chieftaincy of the 'kholwa tribe' of the Groutville Mission Reserve. There is no relation with Njubanjuba.

8), Ndlovu ka Dangazela of the Thonsi (ward 2), Matsobana of the Thembu (ward 4), Mbango of the Zulu (ward 7), Acting chief Malumbo of the Qwabe (ward 9), Nxumalo under Mahlombe (ward 11), Acting chief John Boziana, resident Magistrate (ward 10).<sup>43</sup> As per this list, in the process of setting up new boundaries, the Groutville Mission Reserve under *kholwa* chief Martin Luthuli was incorporated into the LTD Magistracy. The suggestion to turn the Groutville Mission Reserve into a ward on its own had come in 1907. Following a consultation between Shuter, at the time still resident Magistrate, and the 'knowledgeable' Addison, it was "desirable that the Reserve in question should form a tribal area under its own chief."<sup>44</sup>

It is necessary to include some discussion on the character of the reigning Magwaza and Luthuli chiefs at the time and the varying, but fascinating, circumstances under which Guzana and Njubanjuba ascend to the chieftaincy of their respective polities. When Wojiwoji, chief of the Luthuli people in the LTD, died in 1887, his son, Njubanjuba, was appointed on a twelve month probation period on 7 February 1888. The Magistrate of the LTD had opposed his appointment on grounds of his young age. On 25 July 1895, the headmen of the tribe made a formal application with the colonial office to have him appointed on a permanent basis which was approved in August.<sup>45</sup>

A meeting was held in Pietermaritzburg between some prominent members of the chiefdom and the Secretary for Native Affairs. At the meeting, Uzidunge, one of the senior *izinduna*, stated:

On the death of our late Chief Wojiwoji, Njubanjuba, his oldest son by his first and chief wife, was nominated and formally presented to the Magistrate, Lower Tugela Division, Mr Wheelwright, as the successor of the late Chief: the Magistrate said that the question of his appointment had better stand over until he had grown up. We subsequently presented him to the Administrator, Native Law, Mapumulo, Mr Gordon, who directed that he be assisted by the headmen in growing the tribe.<sup>46</sup>

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<sup>43</sup> Don Africana Library, *Department of Native Affairs Annual Report, 1909*.

<sup>44</sup> Shuter to Samuelson, 19 August 1907.

<sup>45</sup> SNA, 2720/1895, 26 July 1895, Minute Papers.

<sup>46</sup> SNA Minute Papers, 3720/95, 878 1895, statement by Uzidunge to the Secretary for Native Affairs, on behalf of the Luthuli people, 25 July 1895.

Almost a decade later, Uzidenge and the headmen were adamant Njubanjuba— the first born son of the first wife—, was now fit to be permanently appointed chief, as per the Luthuli custom.<sup>47</sup>

Making use of the colonial situation, Guzana founded the chieftaincy. His trustworthy temperament was a great asset to the officials. During the Qwabe succession dispute, he was one of the witnesses who gave evidence. He had also worked as *induna* at the magistrate's office in the LTD before becoming chief. Upon his death on Friday 22 October 1915, the Magwaza recommended the appointment of his son and heir Mbangaiya<sup>48</sup> as successor who was succeeded, a decade later, by Madubeko in 1925.<sup>49</sup> This chieftaincy, founded under colonial laws continues to the present day. Recently, chief S'thembiso Hamilton Magwaza, a descendant of Guzana, passed away and was buried at Mayakhulu, falling between Waterfall and Glendale which the Luthuli chief, Mfuneni Luthuli, a descendant of Njubanjuba's, also claims as belonging to his people. As a result, he has lodged a claim with the Land Claims Commission in this regard.

Responding to inquiries by the Chief Native Commissioner on some issues relating to the death of Guzana and the succession issue, the Magistrate stated, "A meeting for the nomination of a successor to the Tribe was held before me this morning...The Tribe consists of 850 huts, they are all on private lands."<sup>50</sup> One such chief of 'great virtue' was *iphakanyiswa*, appointed chief, Guzana *ka* Seketwayo. He was appointed chief over ward 8, demarcated from the source of Umhlali River to Umvoti River. And this appointment should be understood within the context of Guzana's conduct, not only during the Maphumulo uprising but his overall reputation amongst colonial officials. In proposing his name as the new chief of Ward 08, the USNA had this to say:

Guzana who it is proposed to appoint over Ward 8, was formerly a headman under the late Musi and Induna for many years at the Lower Tugela Division Magistracy. He is a very old man but he has always been faithful and well-conducted to my knowledge. His principal so, I

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<sup>47</sup> SNA Minute Papers, 3720/95, 878 1895, statement by Uzidenge to the Secretary for Native Affairs, on behalf of the Luthuli people.

<sup>48</sup> In October, the ageing Guzana had approached the Magistrate of Stanger asking that "Mbangaiya be appointed induna of his tribe and generally to act, in all official matters" on his behalf. The Magistrate indicated "I have given my consent to this, Guzana being an old man, it is a trial for him to travel backwards and forwards to the Court." See CNC, 1936/1912, Magistrate LTD to Chief Native Commissioner, October 14 1912.

<sup>49</sup> See Index to Native Tribes Register, Pietermaritzburg, Natal Witness, 1926, 10.

<sup>50</sup> CNC, 1412/1915, Magistrate Stanger to Chief Native Commissioner, 15 November 1915.

believe, is also a well-conducted and reliable man. In this ward there would be a number of kraals lately under Mlungwana, who was disposed from the Division.<sup>51</sup>

Under the circumstances, it obviously was convenient to omit mentioning from the above ‘vote of confidence’ the true reasons behind Guzana’s departure from the Magistrate office in the LTD where he had worked for years which did not occur under amicable conditions. The colonial office in Pietermaritzburg recommended his dismissal in 1890 after a complaint was made against him. The complaint related to money he had borrowed and was either unwilling or unable to repay the sum. The acting magistrate regretted this decision taken by Pietermaritzburg. He stated “He has been so long in the office that he forms nearly a record of all matters that have been dealt with. It will be difficult to find a man to fill his place as far as knowledge of all acts and cases in the office with reference to Natives.”<sup>52</sup>

Four years later, Guzana succeeded in his request, forwarded to Pietermaritzburg by the Magistrate, to be appointed chief at 6 pound sterling per annum. He is appointed chief of about 40 homesteads at the time under the jurisdiction of Meseni. Guzana had been their *induna* for almost two decades.<sup>53</sup> This decision, effectively, gave birth to the Magwaza chiefdom. The proposal to appoint him as chief of ward eight received support from also Addison who attested “the tribal relations and conditions in the LTD are in most unsatisfactory state and something must be done immediately to remedy the state of things referred to.”<sup>54</sup> The Colonel, who, unsuccessfully, tried to secure a one on one consultation with Moor, informed Samuelson he was “in favour of the appointment of Guzana as Chief. He was an old man...but had always controlled his own tribe with satisfaction and had at all times given loyal service to the Government.”<sup>55</sup>

In the process of the imposition of the ward system, Njubanjuba’s, whose homestead is in Maphumulo, jurisdiction in the Lower Tugela Division was rescinded. While there was some circumstantial evidence of his association with the ‘rebels’, he was never found guilty by any court. Nonetheless, his ‘unbecoming’ conduct during the Uprising was a factor in the decision and it was expected he should moan too much on the decision to

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<sup>51</sup> SNA 2229/1907, 1/1/374, Samuelson to the Minister, 7 January 1907.

<sup>52</sup> SNA, 1890/355, 1/1/123, Magistrate LTD to Secretary for Native Affairs.

<sup>53</sup> SNA 1/1/78, 1408/1893, Resident Magistrate Lower Tugela Division to Secretary for Native Affairs.

<sup>54</sup> SNA 2229/1907, 1/1/374, USNA to Minister, 7 January 1907.

<sup>55</sup> SNA 2229/1907, 1/1/374, USNA to Minister, 7 January 1907.

rescind his jurisdiction over some of his people living on private and crown lands in the LTD.

In the area demarcated as Ward 8, under Guzana there was a total of 12 homesteads falling under Njubanjuba. The Luthuli chief who in the eyes of the colonialists epitomised a typical ‘grumbler’ did complain. And his primary concerns, suggestive of a justifiably concerned chief and relative, rather than a ‘typical grumbler’, were the graves of his father and grandfather Sibukezana and his gardens for cultivation located on land belonging to the Natal Colonisation Company. In May 1908, he submitted a statement of complaint to the acting magistrate of Maphumulo for forwarding to the colonial office in Pietermaritzburg. Moreover, he requested permission to travel to Pietermaritzburg to personally present his concerns with the USNA. The meeting was granted. In his initial statement Njubanjuba stated:

I have come to complain about the decision of Government regarding my jurisdiction being excluded from my tribe living in the Lower Tugela Division. I will now have only a small piece of ground to live on. Even the ground in the Lower Tugela Division was reduced by the boundaries. I had only given permission to Nyekevu to live temporarily on part of this ground. When I say I granted permission I mean that my grandfather did so. Then when the boundary was defined I was excluded from its jurisdiction. My father and grandfather have been buried there, and all my gardens are also there. I pay ten pound sterling rent to the Colonisation Company for said gardens. If I am excluded from these I shall have no ground to cultivate. All my principal headmen live there, the ground I am living on in Mapumulo is not suited for planting.<sup>56</sup>

These concerns, however, were not entertained as Samuelson referring to other similar case made it clear the matter had been decided and no further discussion would be entertained. The demarcation “was done in order to secure more and better control, and whenever possible, to limit the jurisdiction of many chiefs to the Magisterial division in which he himself resided.”<sup>57</sup>

Chief Mlungwana had 83 homesteads falling under him. One section of the Qwabe previously under former Magistrate Shuter had 81 homesteads. The Nxumalo chiefdom

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<sup>56</sup> SNA, 287/07, 9/1908, minute papers, statement of chief Njubanjuba made to the acting magistrate of Maphumulo on 27 May 1908, forwarded to the USNA.

<sup>57</sup> SNA, 287/07, 9/1908, minute papers, summary of meeting between Njubanjuba and the USNA, 16 June 1908.

had 35 homesteads. 27 under Meseni of the eMthandeni section of the Qwabe' Chakijana of the Zulu chieftaincy had 14 homesteads falling under his authority. The Nkwenkwezi section of the Qwabe under Ntshingumuzi had 26 huts; and Makewu of the Dube had 3 homesteads under his jurisdiction. With the Governor's proclamation, these chiefdoms had their jurisdiction rescinded in the division. Effectively, they could no longer talk of their 'people' in the area marked as ward 8. The same goes for other chiefs whose jurisdiction was rescinded in the other eight wards. In April 1908, the *Natal Mercury* reported on a meeting between chiefs of the division and Nathan where the demarcations were further explained. At the meeting chief Makati is reported as having expressed gratitude to the Governor who physically came to address the chiefs on the matter, for the new demarcations. Guzana, also present, is reported to have supported Makati's view that the new arrangements would bring about better control. Representatives of the *kholwa* ward 6 also expressed their gratitude to the Governor for his presence and address.<sup>58</sup>

Introducing the system to the rest of the colony, including Zululand, now falling under the rule of Natal, as a control mechanism, through clearly defined boundaries, against 'troublesome' natives was hoped for. Nonetheless, as envisaged by the Native Affairs Commission Commissioners in their report, the intended results would not be immediately forthcoming. Four years on, following the LTD experience, the conditions in the Pietermaritzburg division, Umgeni branch, also consisting of Africans under various chiefs living on private lands, were described as not conducive to its implementation. "Any attempt of establishing Tribal Areas, or a ward system, such as has been successfully established in the Lower Tugela Division, would, in this District, now be fruitless of any result."<sup>59</sup>

## **Conclusion**

The ongoing land dispute being heard by the Land Claims Commission should be seen as a factor providing further relevance and legitimacy to the Luthuli and Magwaza polities. On behalf of his people, Luthuli has lodged the claim; and it is expected that the chiefdom will rally behind its chief in this matter and appreciate his endeavours in obtaining more land on their behalf. Conversely, on the other hand, the Magwaza chieftaincy is defending

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<sup>58</sup> The *Natal Mercury*, April 25 1908.

<sup>59</sup> M.C.V. 39/11/13, Assistant Magistrate, Umgeni Branch, Pietermaritzburg Division to Chief Native Commissioner, 20 March 1913.



the claim on behalf of its people. Again, this should be contextualised: what are some of the main reasons driving land demands and disputes in areas falling under *amakhosi*.

Guzana Magwaza, generally in the ‘good books’ of colonial administrators managed to capitalise on the situation to become chief and founded the Magwaza chieftaincy in this part of the colony; and was appointed chief over ward 8 when conditions dictated the introduction of the ward system in the LTD. Today, chiefly authority is territorial and, effectively, the relationship between the chief and his people as envisaged by the architects of the ward system. This certainly, ranks amongst the major ways chieftainship was transformed by colonialism. And to understand the current contradiction between this, *vis a vis*, the continued preservation of *ubukhosi*, one needs to understand how the current political elites and the state have found the institution suitable to their post apartheid agenda.

But this has been made possible by the reality that those subjecting themselves to, or are subjected to chiefly rule, still find the institution significant in their life. In his analysis of the state, in 1917, Lenin projected that the bourgeois state and its institutions would lose relevance and ‘disappear’ following a proletariat revolution and the associated revolutionary change of the mode of production and production relations. As a fully fledged institution of the bourgeois state<sup>60</sup>, in spite of what ‘traditionalists’ and other people may claim, *ubukhosi*, I argue, would also only ‘wither away’ if it was no longer deemed to be relevant, especially, amongst those whose lives are continuously shaped by it in its transformed form.

### **Postscript**

For the MA research, I am also following the debate on chieftaincy in the isiZulu speaking circles, including radio stations some widely read isiZulu publications whose readership is quite diverse, such as the daily *Isolezwe*, *Ilanga* which is circulated twice a week and their tabloidised issues published every Sunday, *Isolezwe NgeSonto* and *Ilanga langeSonto*. Generally, the reporting and readers’ views are premised on the genuine belief that the aim of current legislations pertaining to *ubukhosi* is to restore ‘dignity to our traditional

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<sup>60</sup> See the late former Fourth Internationalist, Ernest Mandel’s, broad definition of the State: ‘The Bourgeois State: The Face of everyday Reality’ International Viewpoint, News and analysis from the Fourth International <http://www.internationalviewpoint.org/spip.php?article189>.

institution.’ The angle taken in the non-isiZulu, mainly black African, English publications, such as *The Sowetan*, *Daily Sun* and the *Sunday World*, is similar.

Recently, I came across the following ‘Letter to the Editor’ by two ‘Proudly Zulu’ students of the University of KwaZulu-Natal in Pietermaritzburg. The accompanying photo of the Zulu King, Zwelithini *ka* Bhekuzulu, was taken during the recent series of celebrations marking his sixtieth birthday. See original letter below.



## Ngabe kuseyikho ukuzigqaja kweSilo lokhu

MHLELI: Sibhala nje sesibone lukhulu ephephandabeni lakho lango Msombuluko mhla zingu-28 kuJulayi lapho kuthwetshulwe khona iSilo samaBandla sihlezi esihlalweni, sivunule siqedile njengeNkosi yamaNgisi. Sekufika umbuzo kithina, ngabe yilo yini lesi isiko lwakwaZulu eliqhakambiswa yiSilo na? Phela Ongangezwe lakhe uye ohlezi egxeka intsha ngokusha indiva isikompilo lakwaZulu. Ngikusho lokhu nje sekukaningana ngibona izinto engingankikazi ukuthi kazikho emlandweni nasemgodleni wakwaZulu zisetshenziswa yiSilo

egameni lakwaZulu. Ngizosebenzisa isibonelo engisibona singeyiso ngaphezu kwazo zonke engake ngazibona.

Uma kugcotshwa inkosi entsha kunoma yisiphi isizwe lapha kwelikaMthaniya iSilo usibona sihlome ngobucwebecweben kumba kuhle kukaQueen Elizabeth eyohlonipha isigayigayi sangakubo. Uthi uncimbi usuyophela sisukume iSilo simthinte lowo ozobekwa emahlombe ngayo le nkemba. Uphi umkhonto kaShaka? Ngabe kuyikho yini ukugcoba amakhosi ngenkemba ube ukhona umkhonto wamaqhawe akwaZulu? Kukaningi iSilo sigxeka

abantu abasha ngokucekela phansi isiko lakwaZulu, ikakhulukazi ulimi lwesiZulu.

Angqondile ukugegqa amagula ngeSilo sakwaZulu kodwa ngizwakalisa ilaka lami njengomuntu ozigqajayo ngemvelaphi yakwaZulu. Hleze sekufike isikhathi lapho kumele sivume ukuthi isiko liyaguquguquka, ikakhulukazi lapho sesibona neSilo imbala sivunule ngokungahlonizi njenge-Nkosi yabezizwe.

Mnuz Malusi Mchunu  
(LLB 4th year, UKZN-PMB)  
Mnuz Sonny-boy  
Qumbisa (BA Honours),  
UKZN-PMB)

September 2, 2008, Isolezwe

### Translated Version:

Is this still the way the King (ISilo) expresses his pride in being Zulu

The Editor,

We are writing because we were shocked by what we saw in your 28 July issue where our King (ISilo) was photographed sitting on his throne and dressed up like a British King. We then asked ourselves, is this still the Zulu tradition that the King is expressing pride in? Especially since the King constantly censures young people for having abandoned Zulu culture. We are saying this because on a number of occasions we have been seen numerous misrepresentations which we are certain are not part of Zulu culture with the King at the forefront in the name of the Zulu nation. There is one example which we believe amounts to the biggest misrepresentation. When a new chief is installed in this land of Mthaniya the King is seen armed with a shining sword as if he were Queen Elizabeth honouring one of her country's notables. Towards the end of the ceremony, the King would get up and tap on the shoulder of the new chief with his sword. Where is Shaka's Spear in all this? Is it correct to install chiefs using a sword when the nation has the Spear of a hero of Shaka's statue? The King never ceases to criticise young people for looking down and destroying Zulu tradition, especially the Zulu language.

It is not our intention to lambast the King, but we are merely expressing our concern as Zulu people proud of our heritage and history. Perhaps, it is time we admitted that culture is not static, especially when even the King (ISilo) is seen dressed to kill like a foreign King.

Signed: Mr Malusi Mchunu (LLB 4<sup>th</sup> year, UKZN-PMB & Mr Sonny-boy Qumbisa (BA Honours, UKZN-PMB)<sup>61</sup>

Culture, aptly defined by Social Scientists as a 'people's whole way of life' is not static. Chiefs, kings and institutions of 'traditional authority' do not exist in a secluded world of 'tradition' but in our contemporary, increasingly unequal, materialistic world. The letter writers have not acknowledged this reality. And this is the problem amongst many advocating for 'restoring dignity to our traditional institutions', suggestive of a pre colonial 'restoration.'<sup>62</sup> Expectations, therefore, that the behaviour and conduct of chiefs and kings should, somehow, be different and not reflective of our world are unrealistic. Indeed, in the

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<sup>61</sup> Letter to the Editor of *Isolezwe*, September 2, 2008, Malusi Mchunu and Sonny-boy Qumbisa.

<sup>62</sup> Some understanding of the basis of pre colonial/capitalist African societies is required to fully comprehend this point. Guy has contributed a number of articles analysing pre capitalist African societies to demonstrate change with the encroachment of colonialism and capitalism. Amongst them, 'No eyes, no interest, no frame of reference': Rosa Luxemburg, Southern African Historiography, and pre-capitalist modes of production' in Patrick Bond, Horman Chitonge and Arndt Hopfmann (eds.) *The Accumulation of Capital in Southern Africa: Rosa Luxemburg's Contemporary Relevance* (Johannesburg: The Rosa Luxemburg Foundation, 2007) pages 26-45, 'Analysing Pre-Capitalist Societies'. *Southern Africa in Journal of Southern African Studies*, Vol. 14, No.1. (Oct., 1987), pp. 18-37 and 'An accommodation of Patriarchs: Theophilus Shepstone and the system of Native administration in Natal', History and African Studies Seminar Series. No. 14 of 1997, Wednesday 20 August 1997.

current conjuncture, we, certainly, a problematization of the very supposed dichotomy between 'traditional' and 'modern' is required.