

THE CHIEFTAINSHIP IN LESOTHO: TO RETAIN OR TO ABOLISH?

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Abstract

This article presents and analyses the perspectives of a number of politicians and academics in Lesotho concerning the relevance and role of chieftainship as an institution in the political system of the country. The study was conducted in response to attempts in 2005 by the Lesotho Congress for Democracy (LCD) government to devolve political power and the on-going debate in academic and policy circles on the value of the institution of chieftainship in democratising systems in Africa. Evidence from the field is presented relating to how chieftainship is perceived by politicians (usually but wrongly regarded as competing with the chiefs for political power) and academics in Lesotho, and also to how chieftainship can co-exist with elected councils to consolidate democracy. Chieftainship was found still to enjoy legitimacy among a large number of politicians and academics, and still to be relevant to the country's political system, even subsequent to the establishment of the elected councils.

Keywords: Chieftainship, relevance, legitimacy, local government, Lesotho Congress for Democracy, democratic consolidation

INTRODUCTION

Here in Africa, I repeat, here in Africa, no system of government can work if it puts aside the chieftainship... [my translation] (Mphanya 2009, interview)¹

Following those of 30 April 2005, Lesotho held its second local elections on 1 October 2011, and its seventh parliamentary elections since independence on 26 May 2012. The outcome of the latter was for the first time accepted by all contesting parties. This election gave rise to a widely celebrated coalition government of the All Basotho Convention (ABC), the Lesotho Congress for Democracy (LCD) and the Basotho National Party (BNP), and alternation of political power from the

Democratic Congress (DC). These events were described as worthy of emulation by other countries in Africa and elsewhere (Kapa 2013). Both of these elections have arguably placed Lesotho in an enviable position with regard to the consolidation of democracy, although the journey ahead remains a long one. These democratic achievements notwithstanding, some key issues remain to be debated, including whether or not chieftainship as an institution remains relevant following the introduction of elected structures at local level. I explore this issue by reviewing the election manifestos (from 1993 to 2012 where possible) of 7 political parties selected purposively from the 19 parties registered with the country's Independent Electoral Commission for the purposes of contesting elections, relevant government documents, and data generated through interviews with the leadership of the selected political parties and a number of the country's academics with expertise in these areas.

The ordinary citizens of Lesotho are affected almost daily by the chiefs' rule, and ideally their voices should have been included in this article. However, they were not part of the study on which this article is based; this could constitute the subject of future research.

POLICIES OF POLITICAL PARTIES ON CHIEFTAINSHIP

Election manifestos have been widely studied as a means to determine and assess the policies of political parties on a range of issues aimed at attracting voters in elections. These studies rely on content analysis based on quantitative research designs in *Large N* studies, covering a range of variables and several country case studies in Europe (see for example Budge et al. 2008 and Mikhaylov, Laver, and Benoit 2008). Content analysis is appropriate for both quantitative and qualitative studies, and has the advantage of saving both money and time; moreover it is unobtrusive, as it does not have an effect on what is being studied (Babbie 2007, 320, 330). I used qualitative content or textual analysis, as Peräkylä (2005, 870) suggests, to complement the data generated through interviews. Political party manifestos have been used in qualitative research to determine party policies on issues of national importance in Southern Africa specifically (see Matlosa and Sello 2005 and Kadima, Matlosa, and Shale 2006).

There are two main theoretical perspectives on the chieftainship–democracy debate. In terms of the first, because of its hereditary nature, chieftainship is viewed as an outdated form of political authority and an affront to democracy, with no role in the democratisation process. This makes it a 'problem' to be solved through either democratisation or abolition (Makoa 1990; Rugege 1990; Mamdani 1996; Ntsebeza 2005). In terms of the second perspective, a contextual or pragmatic position is

adopted, and chieftainship is seen as functional within democracy (Owusu, 1997; Sklar 1999a, 1999b). Those who hold this view feel that chieftainship should be retained, but that it should be moulded to suit the context and needs of African societies. In this article I adopt the latter view. As will be shown, political parties in Lesotho are divided along these theoretical lines. The parties selected for the purposes of the study reported on here are the All Basotho Convention (ABC), the Basutoland Congress Party (BCP), the Basotho National Party (BNP), the Lesotho Congress for Democracy (LCD), the Lesotho People's Congress (LPC), the Marematlou Freedom Party (MFP), and the Popular Front for Democracy (PFD). All these parties have been represented in the national parliament following the 2002, 2007, and 2012 elections.

THE ALL BASOTHO CONVENTION (ABC)

The ABC was founded about four months before the parliamentary elections of 17 February 2007 by disgruntled members of parliament (MPs) of the then ruling LCD. At the time of research, the leader of the party was Motsoahle Thomas Thabane (the prime minister of Lesotho following the 2012 elections). In articulating its policy position on chieftainship, the ABC states that:

In order to improve justice, public safety and good governance, the ABC government will respect the chieftainship institution, especially in matters concerning the Laws of Lerotholi, which are the embodiment of Sesotho culture. It will strengthen and encourage the chieftainship to participate strongly in the local government system [my translation]. (ABC 2007, 25)

According to the party's leader, the ABC recognises chieftainship as an important element of the Basotho nation because of its historical role as an institution representing different Basotho identities, namely the Bakoena, Bataung, Batlokoa, and Makhoakhoa, which formed the Basotho nation in the 1820s and constitute an embodiment of their customs. These groups still have their own principal chiefs (Thabane 2009, interview).² Thabane's views on the chieftainship are consistent with those reflected in the ABC manifesto.

THE BASUTOLAND CONGRESS PARTY (BCP)

The post-1993 policy of the BCP relating to the monarchy and chieftainship is reflected in its 1998 election manifesto. In terms of this document, chieftainship has an important part to play in the life of the Basotho people. It is a traditional feature, reflected in their songs, praises and daily activities. The BCP therefore pledges to

create and enhance harmony and good working relations between the chiefs and the people, since the chiefs and the public have to cooperate and share power (BCP 1998, 6).

The party undertakes (a) to ensure that the chiefs are accountable to the people and that they work hand in hand with committees or councils elected by the people, and (b) to ensure that the chiefs treat people without discrimination (BCP 1998, 6).³ Should it be elected to government, the BCP undertakes to

1. amend the laws governing chieftainship in order to clarify the roles of the chiefs and those of the people;
2. help the chiefs to maintain peace between communities;
3. help the chiefs to protect the properties of the people;
4. offer training to the chiefs to enable them to perform their duties efficiently;
5. support the offices of the principal chiefs so that they can carry out their functions fully; and
6. pay the chiefs well as a means to curb corruption (BCP 1998, 6–7).

The BCP manifesto reflects an apparent shift in the party's historical position regarding chieftainship away from hostility and towards accommodation and recognition. However, it no longer says anything about the controversial election principle it sought to subject the chiefs to in order for them to secure membership of the local councils. It provided for this in its 1993 election manifesto, which was later incorporated into the Local Government Act of 1997. It only says that:

The BCP believes that local government constitutes the very fabric of democracy The concept of local government is not completely foreign because traditionally the Basotho people lived as communities under their various chiefs. The BCP further believes that the chiefs will have a crucial role to play in the local government, namely, assist to curb theft, solving land disputes and other crimes. (BCP 1998, 9)

The leadership of the BCP was unavailable for interview. However, I managed to interview one of the party's former senior members, whose views are provided later in this article.

THE BASOTHO NATIONAL PARTY (BNP)

Once a strong party, and winner of the first elections in 1965, the BNP has been known as a party of chiefs, especially junior chiefs (Gill 1993, 211; Machobane 2001, 7; Nyeko 2002, 162). In 1968 it abolished the BCP-dominated district councils and replaced these with development committees, dominated by the chiefs.

Because of its sympathetic attitude towards chiefs, who constituted the core of its membership – especially at the lower levels of the chieftainship structure, where its leader, Chief Leabua Jonathan came from – the BNP benefited enormously from the support of the chieftainship during its rule following independence until 20 January 1986, when it was deposed by the military.

The party did not produce an election manifesto for the 2007 elections, instead contesting the elections on the basis of its 2002 manifesto, which ironically makes no mention of the chieftainship. There is no clear explanation for this omission.

However, erstwhile party leader, Major-General Justin Metsing Lekhanya, provided insights into the party's policy on chieftainship. Lekhanya stated that the BNP values the institution and contended that an appropriate local government must be centred on the chieftainship. Thus the policy of the BNP is that:

The chieftainship is there, it is an integral part of Basotho culture. It must be protected. It must be enshrined, developed rather than transformed. Yes they [the chiefs] are born chiefs but they can be developed through training. But they must pass that training and if, for any reason, a chief is not fit to rule, there must be mechanisms to let the position pass to the next family in line. (Lekhanya 2009, interview)⁴

The post-Lekhanya BNP again dealt with the chieftainship in its pre-2012 election manifesto. This states that:

The BNP believes that the chieftainship is the symbol of unity that God blessed and created the Basotho nation upon. The BNP believes that the chief is the chief by the people. Thus, the BNP protects the chieftainship whose service and power derive from the interests of the people. To develop and empower the institution, the BNP government will resuscitate the College of Chiefs in consultation with the King and District and Ward Chiefs to ensure that the chieftainship serves the interests of the people in the villages [my translation] (BNP 2012, 10).

THE LESOTHO CONGRESS FOR DEMOCRACY (LCD)

The LCD was in government from 1997 until being toppled by its splinter party, the Democratic Congress (DC), on the eve of the 2012 elections. It nevertheless returned to power as a coalition partner with the ABC and the BNP after these elections. The LCD introduced the current local government system. The party's policy on the chieftainship is not reflected in its 2007 election manifesto, but it is included in the White Paper on the Introduction of Democratic Local Government of 1996 and the Local Government Act of 1997.

The message contained in these documents is that the chiefs must be elected, signalling the democratisation of the chieftainship. However, the LCD government backed down on this somewhat, because the chiefs were strongly opposed to it, and suggested as a compromise that the chiefs be nominated by their colleagues for reserved council seats. This move does not, however, disguise the LCD's desire to democratise the chieftainship. The party's 2012 election manifesto and that of its splinter (but bigger) party, the DC, do not even mention chieftainship, possibly suggesting that their priorities lie elsewhere.

THE LESOTHO PEOPLE'S CONGRESS (LPC)

The LPC also broke away from the LCD in 2001. It was formed by a group of 21 long-standing and prominent former BCP politicians. This group was also instrumental in the formation of the LCD itself, and in helping the LCD to execute the 1997 parliamentary *coup d'état* against the BCP, relegating the latter to the ranks of the opposition in parliament.

At the time this research was conducted, the LPC was led by Mr Kelebhone Maope, who had been the sole LPC MP after winning a constituency seat in the 2002 and 2007 elections. He returned to parliament after the 2012 elections under his party's proportional representation list. It could be argued that because of the prominence of its leadership before breaking ranks with the LCD, the LPC has had a more direct role than the BCP and the ABC in shaping and implementing the current local government system in Lesotho. This point is elaborated by its representative, as will be seen below.

Like the BCP, the LPC did not produce manifestos for the 2007 and 2012 elections, and instead used its 2002 manifesto on both these occasions. This manifesto states the party's policy on chieftainship thus:

LPC government will implement a policy of co-operation between the Members of Parliament, Cabinet Ministers, the chiefs and civil servants to find out the needs of the people with a view to addressing them [my translation]. (LPC 2002, 5)

The manifesto is silent about the participation of the chieftainship in Lesotho's political system. Because the leader of the party was unavailable, I interviewed Mr Pashu Mochesane, the party's former publicity secretary, who stated the policy of the LPC as follows:

The chieftainship has to be democratised. It is relevant to Lesotho's politics but it is not indispensable. It will die with time. The elected officials have to be paid more than the chiefs so that the chiefs can voluntarily abandon their hereditary status

and join politics...they have a history of oppressing the ordinary people; they were used by the British as tools of oppression. They own a large number of fields when the 'commoners' are only allowed to own a maximum of three small plots. They collaborated with the British to extract taxes from the people and got paid for this, yet they did not pay taxes themselves. The LPC believes that the chiefs still have a 'cultural role' to play in Lesotho [my emphasis]. (Mochesane 2009, interview)⁵

He acknowledged that the chiefs are the first reference point when people have problems in the villages. In addition, they know the people and property under their authority, and they are able to resolve conflicts between the people concerning most things, including land and other matters in their specific areas of jurisdiction.

Thus, for the LPC, the chieftainship remains relevant only because there is no alternative structure to take over its roles in Basotho society, given that the elected councils are still new; it is difficult to tell how long it will take the councils to take root and earn legitimacy as the chieftainship has done. For the time being, apparently, the chieftainship serves as a transient institution without a guaranteed future in Lesotho. The problem with the LPC's position on chieftainship is its lack of clarity as to what the "cultural role" of chiefs entails, and the relationship and boundaries between this and a number of other duties that chiefs still perform in the villages.

The LCD government has implemented the policy of paying the elected councillors more than the chiefs so that the chiefs voluntarily abandon their hereditary positions and join politics (Mochesane 2009, interview). The chiefs do not receive salaries from the state; however, they receive monthly allowances, which were determined by the British colonial administration on the basis of the number of taxpayers⁶ in each chief's area of jurisdiction. No attempt has been made by the previous governments and the LCD to examine this matter rationally. The amounts of the allowances vary greatly because of the variation in the number of taxpayers in each area. Mochesane explained that the objective of the government in paying a non-standardised amount was to have the chieftainship die away gradually.

The suspicion that the LCD has a covert plan to abolish the chieftainship runs deep among some politicians and various chiefs, as articulated by retired Principal Chieftainess `M`antoetse Lesaoana Peete.⁷ She was of the view that the LCD government wanted to abolish chieftainship, but that this was difficult, because the people like their chiefs. She explained that the views of the people about chieftainship were sought during the preparations for the National Constituent Assembly (NCA) prior to the adoption of the 1993 Constitution. However, the LCD government still had a plan to abolish chieftainship, as reflected in the LCD's attempts in 2012 to alter the nature and composition of the Senate because it regarded the Senate as opposition.

THE MAREMATLOU FREEDOM PARTY (MFP)

One of the oldest parties, the MFP has maintained a pro-executive monarchy policy rather than a constitutional one as it exists in Lesotho. It has consequently been described as a royalist party pursuing a pro-monarchy agenda (Matlosa and Sello 2005, 21). The MFP was not able to secure parliamentary representation in the elections of 1993 and 1998, and was only able to send its leader, Mr Vincent Moeketse Malebo, to parliament from 2002 to 2012 under the PR party list.

The MFP's policy on the chieftainship is contained in its 2007 election manifesto:

The chieftainship has a very big role to play in Basotho society, and from time to time the institution has to be helped to conform to the needs of Lesotho as a developing country. The chieftainship exists as a result of the will of the people. The objective of the MFP is to develop and strengthen the relations between the people and the chiefs and instil in the chieftainship the spirit of being servants of the people, rather than of being served by the people. The MFP will prevent the marginalisation of the chieftainship by politicians as the chiefs are cultural leaders of the nation [my translation]. (MFP 2007, 4–5)

This policy was reiterated by the party's leader, Mr Malebo, thus:

The chieftainship's prominence goes back to the history of the Basotho, and that place of prominence can't disappear and this is espoused by the MFP. The institution can't be killed by throwing it away and leave a vacuum. The chiefs themselves will remain with the Basotho. Thus, give them space in democracy so that they either destroy themselves or help entrench democracy. (Malebo 2009, interview)⁸

THE POPULAR FRONT FOR DEMOCRACY (PFD)

The PFD was formed in 1984 as the United Fatherland Front (UFF), but was banned by the military regime under Order No. 4 of 1986, which proscribed political activity in Lesotho. It was re-registered under a new name, the Popular Front for Democracy (PFD), in 1991 after Order No. 4 of 1986 was lifted, in preparation for the 1993 elections. It has been represented in parliament since the 2002 elections by its leader, Advocate Lekhetho Rakuoane, who was elected Deputy Speaker of the National Assembly after the 2012 polls. Rakuoane indicated that the PFD had no written policy on chieftainship, but that it accepted and supported the existing constitutional arrangement, which recognises the institution even though it is a 'leftist party'.⁹

The above is a summary of the somewhat divergent policy positions of the political parties in Lesotho regarding chieftainship. Some parties (the ABC, BNP

and MFP) find no fault with the current arrangement, while others (the BAC, LCD, LPC and PFD) would prefer to see the chiefs play a less prominent, more marginal role. However, Basotho chiefs have freely participated in politics, and many have been elected to parliament since the first parliamentary elections of 1965.¹⁰ How should the chiefs secure their membership of the local councils?

Participation of chiefs in local councils: nomination or automatic *ex officio* membership?

The principle of nominating some chiefs for reserved local council seats is a compromise on the part of the LCD government in response to the resistance of the chiefs to the initial legal provision in the Local Government Act of 1997 stating that they could be members of the councils only if elected by the electorate. The views of the country's political parties and academics about nomination as a requirement and its implications for Lesotho's political and administrative system were not known. In this section I present and analyse the views of representatives of these two groups.

Views of opposition political party leaders and the government

The ABC leader argued that the legal requirement permitting only nominated chiefs to be members of local councils is flawed, and that every chief must participate in the councils on an *ex officio* basis. In his view, the current local government structure needed to be reviewed to ensure this. In this way, he contended, "there will be no basis for conflict between these structures. Lesotho can achieve a consolidated democracy based on its history and culture, central to which is the chieftainship system" (Thabane 2009, interview).

The leader of the BNP echoed this view, supporting the chiefs' *ex officio* membership of the councils as was the case during military rule. He argued that the military government model is appropriate because the chiefs chaired the committees, but that "they could be defeated by majority vote when there were disagreements. They did not and could not dictate to the committees." He criticised the LCD government for basing the current local government system on party politics and for having the councillors elected on political party lines rather than on merit. He asserted that if the BNP were to come to power, it would:

put aside the current local government system, work on the councils boundaries to ensure that the councils are equal in terms of population, include all the chiefs *ex officio*, and decentralise central government functions and budget. This has been done before! The military government did this and it gave the people autonomy to use funds as they saw fit in response to their needs. The people themselves must make their own policies and not be dictated to by the central government. (Lekhanya 2009, interview)¹¹

He further stated that the BNP would train the chiefs regarding their specific role in the local government system and involve them fully in the local government policy-making process. This would ensure that the chiefs accepted the councillors as their people, who would help them in their work rather than fight them (Lekhanya 2009, interview). He mentioned a rumour that the BCP government wished to abolish the chieftainship through the introduction of the local councils, and that even the LCD still had plans to abolish the chiefs, from junior to principal level. He supported this assertion by citing the attempts by the LCD government to ‘restructure’ the Senate (Lesotho’s Upper House of Parliament) and enlarge it, while at the same time reducing the number of chiefs represented in the chamber from 22 to 10.

According to the MFP leader, Mr Malebo, the MFP’s position was that the chiefs should be members of the councils *ex officio*, and that if it were elected to government, the MFP would do away with the current nomination requirement, develop the chiefs through training, and pay them more than the councillors because they have more work.

Mr Ntsukunyane Mphanya, one of the long-standing members of the National Executive Committee and holder of a range of portfolios, including secretary-general of the BCP, Minister of Agriculture and later of Public Works under the BCP government, and at the time of research retired from active politics, was critical of the current local government model for “forcing the chiefs to be nominated by others.” He considered this to be “a serious mistake” (Mphanya 2009, interview). He revealed that when it assumed power in 1993, the BCP found the plan to implement the local government system as it is now already in place: it was therefore not the BCP’s model. Moreover, it was donor-driven, and therefore unsuccessful in the context of Lesotho. This is why, in his view, the BCP took a long time to implement this plan.

The appropriate local government system, according to the BCP’s original policy, should be modelled on the *matsema*¹² system, in which the chiefs are not elected or nominated, but rather become ‘ceremonial heads’ of each *letsema* in each village. The chiefs do not direct the people; instead, the people have the freedom to plan their own development projects. This is how the Basotho conceptualise the local government system and how they have been ruled. He asked: “If the chief in your village got nominated into the council, will he care about other villages of which he is not chief? This system is very weak”. Mphanya maintained that in a properly structured local government system the chief is the chairperson, and simply endorses the decisions of the community; he provides continuity because he is ever present, whereas politicians come and go. The LCD government did away with everything that was introduced by the BNP government, yet it should have retained the successful elements. He claimed that the old village development committees

were the BCP's idea, 'stolen' by Chief Leabua (prime minister from 1965 to 1986) from the BCP on the basis that it was the best model for Lesotho. He affirmed that if the BCP were elected again and if he were still a part of it, the village development committees, based on the *matsema* model, would be reintroduced. Given that the model advocated by Mphanya has a long history in Lesotho and that it does not tamper with the positions of chiefs, as the chiefs themselves have been accustomed to it, it is more likely to work and aid the process of democratic consolidation in the country.

The leader of the PFD, Rakuoane, argued that the failed attempts by the LCD government to force the election of the chiefs to local councils would have politicised chieftainship as an institution, had the government succeeded. Similarly, in his view, the fact that the chiefs are now nominated by their colleagues to these councils has caused confusion, since in some council areas, senior chiefs (area chiefs) have been left out while junior ones (headmen) have been nominated to serve on the councils. The structure of the chieftainship is in fact gazetted, and comprises (from top to bottom) principal chiefs, area chiefs, and headmen. The problem here is that chiefs take instructions from their seniors, and not the other way round. He recommended giving the chiefs *ex officio* seats on the council. He felt, however, that the chiefs should not have voting rights in the councils, because they are not elected by the people. In his view, even at the national level, there is no reason for all the principal chiefs to be in the Senate. Rather, they should serve on the district councils to ensure supervision of junior chiefs on policy implementation at lower levels. If and when the PFD is elected to government, it will:

streamline the functions and powers of the chiefs and train them on their role in the country's political system, and devolve power from the central government to the lower levels. They will also be encouraged to form their own association so that they can engage with the central government on issues affecting them. (Rakuoane 2009, interview)

Rakuoane concluded that these measures would end the conflict over roles between the chiefs and councillors. In his view, this conflict arises from the absence of any effective devolution of power.

The PFD's position appears to converge with that of the LCD. The party is of the view that the principal chiefs should be represented by a few in the Senate, and that chiefs should be *ex officio* members of local councils. This seems to mirror what the LCD government has already done in the case of chiefs below the rank of principal chief, although it has allowed the chiefs to vote in council meetings. However, any attempt to implement this proposal is likely to meet with fierce resistance from the principal chiefs, because they would lose parliamentary benefits. In addition,

Rakuoane's view that the chiefs should not have voting rights is similar to the original intention of the LCD, as contained in the draft White Paper on the Establishment of the Local Government; this was, however, abandoned because it did not meet with the approval of the participants in the country-wide consultative workshops.

Why did the government insist on the principle of nomination rather than *ex officio* membership? The then Minister of Local Government and Chieftainship Affairs, Dr M'atumelo Pontšo Sekatle, defended the LCD government's decision on the issue, arguing that chiefs do in fact secure *ex officio* membership of councils and that they must be nominated to represent others because there were more chiefs than there were council seats reserved for them. The rationale behind having chiefs serve on the councils "is to ensure that chiefs as peace-makers and traditional rulers in their own communities should be represented in local government" (Sekatle 2009, interview)¹³. However, this kind of dualism causes problems between the chiefs and the councils because it is not based on any clear demarcation of powers, duties, and responsibilities.

Regarding the criteria used in the nomination process and whether or not seniority matters, she stated:

I suppose they base their selection on merit, rather than seniority. The law says gazetted chiefs must be nominated. It does not talk about any other criterion, such as seniority, although they are not equal. Junior gazetted chiefs do get nominated over their seniors. We left it to them to decide for themselves.

The Minister cited the law as imposing the nomination requirement on the chiefs rather as though the law had not been made by her own party. If the party and its government so wished, they could easily amend this law, given its majority in parliament over the years. In fact, the government did eventually amend this law to the effect that the chiefs were nominated by others into councils rather than being elected by the people, as was the original policy of the BCP/LCD government. According to the Minister, the LCD government had to change the earlier legal requirement that the chiefs be elected by the people to the current nomination procedure because:

The chiefs were opposed to their election.... Some were arguing that we were politicising the institution because if they were to stand for election, the electorate were going to base their election on party political criteria and that would influence some of the chiefs to align themselves with political parties in order to be elected.

Nevertheless, the Minister stated somewhat contradictorily in response to a question in Parliament during the debate on the Local Government (Amendment) Bill of 2003 that the chiefs themselves had stated during the process of collecting public

views on the White Paper on the Establishment of Local Government in Lesotho that they wanted to be elected by the people. She commented that the junior chiefs suspected that their seniors would expect to be elected to councils by those junior to them as a sign of respect rather than on merit (Kingdom of Lesotho 2003, 46).

It would be understandable that the introduction of local councils carrying out their work in the same geographical area as the chieftainship would have the potential to cause some conflict between the two. I asked the Minister to identify the challenges relating to relations between chiefs and councillors, if any, and the strategies the government had taken to overcome them. She replied as follows:

If we wanted to do away with the chieftainship we would have abolished it like the Tanzanians did! Chiefs rule, councillors develop. Chiefs are traditional born leaders. Some councillors feel like they are chiefs. Chiefs feel threatened by councillors. We have embarked on education programmes. But the chiefs continue to allocate land illegally. They use the 1979 Form Cs;¹⁴ it is an issue of non-compliance with the law. There have been conflict over land allocation for burial purposes, yet the councils allocate land, chiefs request places within the councils' selected area to bury the dead. There will be challenges!

The Minister's statement that chiefs continue to allocate land unlawfully implies that the government has failed to obtain the full support of the chiefs in matters relating to decentralisation and democratisation. The Minister's statement is supported by Leduka (2006), who shows that the state is failing to meet the people's demand for land, and that chiefs merely fill the vacuum left by the state.

I had not in any way suggested that the government wanted to abolish chieftainship, yet the Minister raised the issue quite spontaneously. Carefully interpreted, this response is the most significant of everything the Minister said during the interview, and arguably reveals the actual long-term policy of first the BCP, and later the LCD regarding the chieftainship. In fact, some cabinet ministers responded angrily to the principal chiefs in the Senate during the debate on the Sixth Constitution Amendment Bill of 2008, claiming that the chiefs were in opposition to government and that the chieftainship as an institution would be abolished through the calling of a referendum if they did not change their ways (Kingdom of Lesotho 2008, 46).

In sum, the leadership of the ABC, BNP, MFP, the former general-secretary of the BCP and the PFD unanimously took the view that the chiefs must be *ex officio* members of these councils, just as the principal and ward chiefs are members of the Senate by virtue of their positions at the national level. The overall effect of this move would probably be to improve the prospects of a consolidated democracy.

VIEWS OF ACADEMICS

I also asked three academics with expertise in this area from the National University of Lesotho (NUL) to comment on the legal requirement that the chiefs be nominated by other chiefs in order to be members of community councils in their respective areas. These were Professors Lehlohonolo Machobane, Tefetso Mothibe, and Resetselemang Leduka. Machobane argued that the best way of making the chiefs part of the councils is through *ex officio* membership. He further explained how the chiefs have developed their authority and how society has come to accept it. He noted that they cannot be elected because:

A chief is someone with substance. They are born chiefs. If you say they should be elected, it is an insult to them. It is going to take a long time for that kind of thinking to be converted and for the people to understand. To be elected presupposes that you are the same as everybody else. Chiefs, even the poorest of them, don't think they are the same as everybody else. They think their blood is heavier than that of other people, and society accepts that. Their acceptance as authority with legitimacy is a mythology that has taken centuries to develop; the mythology that there is something in the chiefs that makes them different from other people. It is very difficult to remove that from the people's mind. They have a lot of self-confidence and assert themselves as chiefs. They have a sense of authoritativeness, and society throws legitimacy over them even without them having to earn it. They are like men who consider themselves as rightful authorities in their own families. (Machobane 2009, interview)¹⁵

Machobane's statement contains important information about the self-perception of chiefs and how society has come to accept their legitimacy. It shows that there is a convergence of thinking between the chiefs and society about what a chief is or ought to be. The description of how society has come to accept the legitimacy of the chiefs as a "mythology" is particularly apt, as there is no rational way of explaining this with reference to history. Machobane also brings out the issue of birthright as a factor that sets a chief apart from other people: no one can easily be accepted by society as a chief unless that person is born as such. It would presumably take a very long time before an elected official were to enjoy the same level of legitimacy as a chief, both in Lesotho and in other African societies.

Leduka also expressed the view that the chiefs should be *ex officio* members of the councils in their respective areas rather than be elected. He was emphatic on the matter, exclaiming:

No, chiefs can't be elected! What do you mean? The institution is based on birthright. That is how the Basotho have accepted it. To say they have to be elected is meaningless. My argument has always been that every gazetted chief should be

part of all structures. If elected, it won't be chieftainship! They must be assisted by both elected and appointed officials in their duties. (Leduka 2009, interview)¹⁶

Leduka agrees with Machobane that the chiefs cannot be elected because chieftainship as an institution is based on birthright, and that this has been accepted by Basotho society. He also touches on the issue of legitimacy, although not directly, and goes yet further, finding no reason why the chiefs cannot be chairpersons of the councils, an opinion he shares with Lekhanya and Mphanya.

Mothibe supports the general views of his colleagues and opposition leaders that chiefs must be *ex officio* members of the councils because this gives them recognition as chiefs:

They must be there on *ex officio* basis, that is, by virtue of their birth positions. If they become members of the councils on *ex officio* basis, this is to assert their traditional authority and is also a sign of recognition of their role in society. So, I think they should be put there on *ex officio* basis. (Mothibe 2009, interview)¹⁷

These academics were all of the view that the chiefs must be *ex officio* members of the councils rather than be subjected to either election or nomination by their colleagues. In this they concurred with the opposition leaders, in particular the ABC, BNP, MFP, PFD and the representative of the BCP. These responses have indirectly touched on the relevance of chieftainship in the contemporary politics of Lesotho. To solicit more direct responses in this regard, I posed a direct question relating to this to both categories of respondents.

RELEVANCE OF THE CHIEFTAINSHIP TO THE CONTEMPORARY POLITICAL SYSTEM IN LESOTHO

Given that the introduction of elected local authorities in Lesotho with a legal mandate to carry out some of the functions previously performed by the chieftainship is a new development in the country, it could be said to call the relevance of chieftainship into question. I asked for the views of the respondents on this.

Views of the political leaders

The leader of the ABC argued that the chieftainship is still relevant for a number of reasons. Chiefs perform a number of important functions, including peace-keeping and conflict resolution, in ways that no state agency has to date been able to replicate. In the past the chiefs carried out judicial functions in the local courts, but the judicial system at local level has been "corrupted and killed by the present government

[LCD]” (Thabane 2009, interview). This has occurred through allowing qualified lawyers to intervene in cases, whereas in the past people represented themselves and were allowed to call their own witnesses from within their communities. The previous system was simple, yet highly effective, but has now become too technical, costly, and beyond the reach of ordinary villagers. Thus, Thabane argued, justice, which is the basis for peace and stability, is beyond the reach of most villagers.

According to Thabane, the ABC government will reinstate the original system to ensure that those powers are restored to the chiefs, and that peace and stability are therefore promoted. However, they will be trained properly, assisted by trained local court presidents, and checked by the government in the exercise of these powers to ensure that they do not apply them absolutely. In administrative matters, he continued, the ABC government will ensure that the chiefs are assisted by appointed and elected councillors, who are representatives of the people.

The ABC leader was suspicious of politicians, and regarded them as more easily corruptible than chiefs. He pointed out the disadvantage of the government’s having taken away the powers of the chiefs:

You can look for an empty place and claim it is yours because nobody knows which land belongs to who. If a local councillor comes, you can either scare him/her off, or bribe him/her, and the land becomes yours.

Chiefs also keep stock registers and regularly inspect the stock to ensure that the registers are up to date. This minimises stock theft. The chiefs are able to do this because they are a constant presence in the villages. Thabane noted that it is not clear whether the chiefs continue to fulfil these functions, or whether this is now the responsibility of the councils. He explained that the confusion arises from the lack of clarity about the roles of the councils *vis-à-vis* those of the chiefs. According to Thabane, the chiefs should be the authority when it comes to authenticating stock ownership. However, the chieftainship has now been diluted by the government, and in consequence it is now easy for people to take what does not belong to them. People are therefore forced to rely on the police, who are not always present. He emphasised the centrality of livestock in the lives of Basotho, noting that it represents wealth and enables the people to perform cultural rituals such as welcoming brides and honouring the dead. Such rituals make the Basotho who they are as a nation, and one cannot imagine them giving them up, revolving as they do around the chieftainship structure. He considered diminishing the authority of the chieftainship ill advised, because implementation of government projects in the villages depends on the chiefs, who work without adequate pay.

As a representative of the BCP, Mphanya believed that chieftainship as an institution remains relevant in Lesotho and in Africa as a whole, stating emphatically:

Here in Africa, I repeat, here in Africa, no system of government can work if it puts aside the chieftainship. This applies to Lesotho as well. Chiefs must be part of any system of government at all levels.

He rejected a chieftainship whose image is tainted, but advocated one with certain admirable qualities. Thus:

Lesotho needs the chieftainship; the chieftainship is still very much relevant, but it should be one which combines two attributes: service to the people and ability to listen and to be responsive to the needs of the people. It should not be autocratic. It is easy to mould such a chieftainship... if the chief is not doing what the people want, he should be removed from office as was the case before.

However, he quickly added that “this should not affect the King because he is the head of the nation/the country.” The chieftainship should not be abolished; rather:

We must find a system that will include the chiefs, give the people power to say what a chief must be like, and what powers he must have. We must understand what chieftainship is. It has a long history. It was not hereditary, but service to the people.

The BNP leader, Lekhanya, asserted that the chieftainship checks the excesses of selfish politicians, and in that way contributes to good governance. He cited the important role played by the Senate in preventing the passing of the Sixth Amendment to the Constitution Bill of 2008, the main object of which was to allow for election-related cases to be appealable, with retrospective effect.¹⁸ All cases dealing with election-related disputes are heard by the High Court, the decision or judgment of which cannot be appealed. Lekhanya argued that the chiefs in the Senate acted democratically because “you can’t legislate over the matter in court and with retrospective effect.” The chieftainship, according to Lekhanya, is also able to check the abusive behaviour of politicians and manipulation of democratic political institutions such as the legislature, the judiciary, and the Independent Electoral Commission (IEC). It performs an array of functions at the local level. He stressed that:

the chiefs are peace officers day and night. Whenever there is a problem, people call on the chief. The police are useless without chiefs. I’m saying this through my own experience as a peace officer. If the police try to work alone, they get killed by the people. There is peace in the villages because of the chiefs. Every morning in every village, there is a *pitso* [a general public gathering] at the chief’s place to deal with local issues on disputes and crime. (Lekhanya 2009, interview)

Even the former publicity secretary of the LPC, Mr Mochesane, whose views on chiefs were less than positive, acknowledged that the chiefs are the first reference point when people have problems in the villages (Mochesane 2009, interview). The fact that they know the people and property under their authority allows them to resolve conflicts about all sorts of things, including land, in their specific areas of jurisdiction.

The leader of the MFP argued that chiefs continue to have a place in Lesotho's political system not only because of their long history as a foundation upon which the Basotho nation was built, but also because the current local government system fails the Basotho in service delivery. In his view, the chiefs have considerable knowledge about, and interest in, public issues that no local councillor will ever have. The chiefs are always available in every single village, however small, and attend to public problems in a manner that no councillor will ever do. They are called upon to help the people any time of the day or night. They serve as an extended hand of the central government by mobilising people for government projects involving agriculture, range management, public roads and so on. They never refuse to co-operate with any government on any of its policies or projects. They maintain law and order in their respective villages. He regretted that the government did not appreciate this sacrifice and commitment. At the time of research, the government paid the chiefs a stipend of between M400 (approximately US\$40) and M900 (approximately US\$90) per month compared with M2500 (US\$250)¹ monthly salaries earned by councillors.

The PFD leader, Mr Rakuoane, also acknowledged the important roles played by chiefs in Lesotho in peace-keeping, mediating in hereditary issues, identifying and authenticating people's livestock, and dealing with land issues. He stated that these issues cannot simply be wished away in a rural setting, and in consequence chiefs have a significant role to play in Lesotho, since the state still lacks the necessary capacity to carry out most of the duties that the chiefs currently perform cheaply for it. He further observed that the chiefs fill the enormous vacuum that exists between the state and society. Rakuoane noted that despite the crucial role that they play in society, chiefs are not appropriately paid by the government. In his view, they must be trained and paid well to ensure that they provide efficient service to the people.

Views of academics

The academics I interviewed were unanimous regarding the relevance of chieftainship as an institution. They invoked issues of culture and national identity, with which the chieftainship is synonymous to the Basotho. Like the politicians, they too emphasised the functional or instrumental dimensions of the argument in

favour of the chieftainship. Machobane justified the relevance of chieftainship to Lesotho's politics and administration thus:

Yes, it is still relevant; it is also deep seated in society. You can destroy individual chiefs but not the system. It is a cultural-sociological part of the Basotho. It will, for some time, be part of our society. The majority of the Basotho in the villages have known the chiefs as their first line of defence. They do not want to follow the elected officials for their general welfare, reporting property, reporting problems of field boundaries, interpersonal conflicts and so on. They don't go to the councillors, they go to the chiefs. That's who they know! The people are suspicious that councillors are corrupt. The chiefs don't sleep. When people bring their problems, they are woken up, but councillors are not. Chiefs are consulted when visitors come to the village. They are reported to the chief. He has to know what is happening.

Similarly, Mothibe pursued the national identity argument in defence of the chieftainship and said: "chieftainship is very much part of our culture, and when a Mosotho says 'I am a Mosotho' and he is asked: a Mosotho from where? He says: 'from chief so and so'. I think it is still very much relevant." Leduka expressed similar sentiments, and argued that:

Chieftainship will always remain relevant in Lesotho, whether we like it or not. The thinking that the local government should supplant the chieftainship was very wrong. This is because the Basotho at the grass-roots have been accustomed to working with their chiefs. My idea has always been that you can't impose a new structure over an existing one and pretend the old one did not exist. Chieftainship will always be relevant. It is only an academic argument that the chiefs are not relevant. That's what politicians say when they want to score political points. If you go down to the people, it's a different reality altogether. Even in the city [Maseru], when I was doing my own research, I had to report to the chiefs; the councillors eventually took me to the chiefs because they knew that communities would chase away my research assistants. This is within the capital city where the chiefs are still relevant. So what more about the rural areas? I say you need a letter introducing and recommending you to get services like passport, police clearance, and bank account and so on. This is the reality we can't ignore.

These academics also refuted the arguments that there is no accountability attached to the chieftainship, and that it is undemocratic because there is no element of election. In this regard, Mothibe argued that:

By its very essence, chieftainship is accountable. "A chief is a chief by the people". There is no chief without the people, and the chiefs know this very well. So, accountability is very well taken care of by this proverb.

Machobane also offered the reassurance that people do indeed have some socio-cultural recourse if the chiefs are not accountable:

If a chief does not command respect and performs badly, he knows the people will go to his mother as a man. They feel embarrassed as men and human beings when this happens; everyone wants to be respected. So, the chiefs are accountable to the people.

He went on to highlight the hypocrisy of politicians in Lesotho and in Africa as a whole:

There is a paradigm in African systems that prime ministers and presidents, deep down and sub-consciously or consciously, aspire to be kings or chiefs. They want to strip power from those people who are born chiefs. They use democratic methods to become chiefs. Even those who are not yet in power do want to be kings or chiefs. So as long as this is the kind of thinking among the leaders who purport to be democrats, the same thing applies lower down.

Elaborating on this ‘paradigm’, Machobane told the story of an elderly lady in Kolonyama, the home town of Lesotho’s former prime minister Jonathan. This lady, and by extension most people in Lesotho, did not see anything wrong in Leabua clinging to power by force:

An elderly lady at Kolonyama opined with another one that “I was just watching this son of a chief [Leabua]. I would think that he is an idiot if, once he was in power, he decided to come down.” This is the way people think in Africa.

The political leaders and academics interviewed believed firmly that the chieftainship remains extremely relevant to the country’s politics and administration because it performs crucial functions and defines the Basotho as a nation. However, an important question remains to be answered: in what way can the chieftainship co-exist with elected councils?

TOWARDS AN APPROPRIATE MODEL FOR THE CO-EXISTENCE OF CHIEFTAINSHIP AND COUNCILS IN LESOTHO

There was general consensus among the politicians and academics interviewed that chieftainship as an institution is still relevant to the country’s political system, even after the introduction of the elected councils. The government has to find a way of integrating the chieftainship with elected councils, based on either regulated dualism/parallelism or subordination. In terms of the former, chiefs and councillors exist side

by side, fulfilling different and legally defined functions in parallel under the overall co-ordination of the central government. In terms of the latter, the chieftainship is subordinate to the democratically elected councils: the functions of the chiefs and the councils are clearly defined; chiefs are prohibited from active participation in party politics, and must support local political decisions. If they wish, they may take an active part in politics, but if they do they are required by law to resign their chiefly positions. Those who fear being voted out tend to accept the division of the two offices (Büsing 2002, 40–42).

Implementing either of these models must be a truly participatory process that gives the chiefs full opportunity to participate actively. If the government approaches them genuinely, they are more likely to accept the new changes, since these would not be injurious to their interests. They have not rejected the current local government system, even though it has marginalised them. They have almost unanimously accepted and embraced the local government system in principle, despite experiencing concerns about marginalisation in the processes leading to its establishment (Kapa 2013, 130). The government has an obligation to train them to ensure that they understand their roles where these overlap with those of the councils, especially in terms of matters relating to land.

CONCLUSION

None of the political parties considered in the study reported on in this article rejected chieftainship as an institution outright. However, whether or not they would implement pro-chieftainship policies if they were to be elected to government cannot be stated with certainty. Most of the leaders interviewed had served in previous governments at different times, and did not implement any pro-chieftainship policies. The BNP accepts the institution as it is, believing that there is no need to transform the chieftainship; rather, chiefs have to be trained by the government to carry out their functions. The party nevertheless cautions that chiefs “must pass the training or be removed from office and let the chieftainship pass on to the next family.” The ABC’s policy is also pro-chieftainship because it believes that the institution contributes to good governance and promotes peace and stability in the villages. The MFP acknowledges the past and present important role of the chieftainship and promises to protect the institution from marginalisation by politicians. It argues that the chieftainship will remain with the Basotho nation forever, and that it must therefore be given some space in the country’s democracy.

The policies of the LCD and the LPC seemed to converge to some extent prior to the 2012 elections. Both parties are adamant that chieftainship must be democratised through being made elective. The LPC believes that if this goal is to

be realised, chiefs should be paid less than elected officials so that they will abandon their hereditary positions and join politics. The LCD government has implemented this idea through ensuring that chiefs are nominated by their colleagues to reserved council seats and paying them less than the councillors. The statement made by the then Minister of Local Government, Dr Sekatle, that “If we wanted to do away with the chieftainship we would have abolished it like the Tanzanians did” and the views expressed by the Cabinet Ministers in the Senate reveal the LCD’s undeclared policy on the institution. The LCD government used to refer to the Ministry under which chieftainship falls as the Ministry of Local Government. It seems to have included the phrase *and Chieftainship Affairs* as an afterthought following the 2007 elections, probably after realising the possibility of a political backlash from the people. The DC could arguably be put in the same category with the LCD and LPC because of the similarities between the policies and leadership personalities of all three. The LCD and the DC do not say anything about the chieftainship in their 2012 elections manifestos.

The ABC, BCP, BNP, MFP, PFD, and academics interviewed were of the view that chiefs should be *ex officio* members of the councils in their respective areas. They were critical of the existing legal requirement that to secure membership of these councils, chiefs must be nominated by other chiefs. The perspectives of the politicians and academics examined during my study refute the arguments of modernists (Logan 2008) – pursued persuasively by Mamdani (1996) – in the literature dealing with chieftainship and democracy that chieftainship is essentially antithetical to democracy, and must be abolished so that the process of democratisation can be achieved in Africa.

The Lesotho case underscores the value of contexts in the discourse on democracy and chieftainship. Context helps bring to the fore aspects that may be masked by generalisations. The chieftainship is still granted considerable legitimacy by Lesotho’s politicians and academics and its relevance to the country’s political system, even after the advent of elected councils, remains unquestioned. The government, therefore, has to find an appropriate model for integrating the chieftainship *with* and *not into* the elected councils on the basis of either a regulated dualism/parallel or subordination model.

NOTES

- 1 Interview with Mr Ntsukunyane Mphanya, 26 March 2009, Mapoteng.
- 2 Interview with Mr Thomas Motsoahae Thabane, 22 January 2009, Maseru.
- 3 Although the BCP manifesto does not provide any concrete evidence of the alleged discrimination by the chiefs in providing services to the people, they were accused by the common people of abusing their power and discriminating through the collection

- of fines imposed by the chiefs' court on those who lost cases brought before the chiefs. They were accused of collecting fines from the common people more quickly than from other chiefs. Thus, discrimination was based on whether or not one was from a chiefly family (Machobane 1990, 138).
- 4 Interview with Major-General Justin Metsing Lekhanya, 19 January 2009, Maseru.
 - 5 Interview with Mr Pashu Mochesane, 19 February 2009, Maseru.
 - 6 All adult males were forced by the colonial administration to pay "hut tax" for each hut or wife's residence. Basotho society used to be polygynous, and so for each wife, a Mosotho man had to pay tax to the state (see Machobane (1990, 65)).
 - 7 Interview with Chieftainess `M`antoetse Lesaoana Peete, 7 August 2009, Mapoteng.
 - 8 Interview with Mr Vincent Moeketse Malebo, 15 January 2009, Maseru.
 - 9 Interview with Advocate Lekhetho Rakuoane, 16 January 2009, Maseru.
 - 10 Chief Sekhonyana `M`aseribane won the election under the banner of the BNP and became caretaker prime minister until Chief Leabua, the leader of the party, won a by-election in Mpharane constituency after losing in his own constituency. The BNP had done very well in Mpharane compared with other constituencies, and the BNP felt it to be a safe base for its leader. Chief Leabua took over the premiership from Chief Sekhonyana Maseribane only after winning the by-election (see Machobane (2001, 8–9)).
 - 11 Interview with Major-General Justin Metsing Lekhanya, 19 January 2009, Maseru.
 - 12 *Matsema* (plural) and *letsema* (singular) refer to the system according to which the people provided tribute and free labour to their chiefs. The system fulfilled different functions in Basotho society. One was political, in that it was an expression by the ordinary people of political allegiance to their chiefs; in exchange, those providing this free labour were ensured access to land for their own use and other community services by their chiefs. (For details, see Mothibe (2002, 26–27).)
 - 13 Interview with the Honourable Dr Pontšo `M`atumelo Sekatle, 24 March 2009, Maseru.
 - 14 These are certificates used to indicate title to hold land in Lesotho. Since the introduction of the councils, it is the councils that issue these documents, not the chiefs, as was the case before. The chiefs did not allocate land on their own, however; they always worked with committees selected by the people in terms of different local government arrangements.
 - 15 Interview with Professor L. B. B. J. Machobane, 16 February 2009, Roma.
 - 16 Interview with Associate Professor Clement Resetselemang Leduka, 16 February 2009, Roma.
 - 17 Interview with Associate Professor Henry Tefetso Mothibe, 16 February 2009, Roma.
 - 18 At the time, a case was lodged by the Marematlou Freedom Party (MFP) before the High Court of Lesotho contesting the allocation by the Independent Electoral Commission (IEC) of 21 proportional representation (PR) seats in the National Assembly. The ruling party and the opposition ABC had benefited from this allocation in that they had formed alliances with the National Independence Party (NIP) and the Lesotho Workers Party (LWP) and had put the names of some of their members on the NIP and LWP PR party lists in order to earn PR seats. They would not have obtained these seats under the MMP voting system, as they had won more of the constituency-based seats. The LCD pushed through a Bill in the National Assembly so that if it lost the High Court case, it could appeal the judgment (see Kapa (2008)).

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