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PEASANTS AND POLITICS IN THE WESTERN TRANSVAAL, 1920-1940

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PEASANTS AND POLITICS IN THE WESTERN TRANSVAAL, 1920-1940

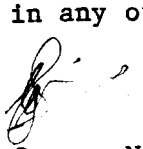
Graeme Neil Simpson

A Thesis Submitted to the Faculty of Arts,
University of the Witwatersrand, Johannesburg, in fulfillment of the requirements for the Degree of Master of Arts.

Johannesburg 1986

DECLARATION

I declare that this thesis is my own, unaided work.
It is being submitted for the degree of Master of
Arts in the University of the Witwatersrand, Johannesburg.
It has not been submitted before for any degree or examination
in any other University



Graeme Neil Simpson

5 August 1986

ABSTRACT

This thesis examines the political and ideological struggles within Tswana chiefdoms in the Rustenburg district of the Western Transvaal in the period 1920 - 1940. This period was characterized by a spate of struggles against tribal chiefs which took on similar forms in most of the chiefdoms of the district. These challenges to chiefly political authority reflected a variety of underlying material interests which were rooted in the process of class formation resulting from the development of capitalist relations of production within the wider society. Despite the variations in material conditions in the different chiefdoms of the district, the forms of political and ideological resistance were very similar. The thesis examines the extent of the influences of Christian missions and national political organisations in these localized struggles, and also explores the relationship between chiefs, Native Affairs Department officials and the rural African population in the context of developing segregationalist ideology during the inter-war period.

PREFACE

This thesis was originally born out of a desire to extend and expand on the research which I did in the course of my B.A. (Hons.) Dissertation. (Simpson, G.N., 'The Political and Legal Contradictions in the Preservation and Dissolution of the Precapitalist mode of Production : The Fokeng Disturbances, 1921-6', B.A. (Hons.) Dissertation, University of the Witwatersrand (1981).) Whilst doing research into the Fokeng chiefdom in the 1920s, I became aware of a massive correspondence within the Native Affairs files (N.T.S.) which dealt in some detail with other remarkably similar disputes in other chiefdoms of the Rustenburg district. This then, was the first basic reason for undertaking a study of Peasants and Politics in the Western Transvaal, 1920-1940; the raw material was readily available, (well not quite - the fact that the N.T.S. files are closed after 1934 meant that I had to ask permission to see most of the relevant material, and this took some time in coming) and indeed had hardly been explored. From that point on, I simply allowed the documents to dictate the direction.

Although it is not always explicit, this thesis provides a comprehensive critique of my earlier work. Not only does it offer very different interpretations of the events at Phokeng, but the method and analytical framework are different to, and critical of, those which I used before. The absence of much secondary literature on Rustenburg district, other than Relly's short thesis (Relly 1978) and the occasional reference in some of Bradford's work, meant

firstly, that this thesis would fill a gap in the rural history of South Africa, but that the study would face the difficult problem of 'isolation' and a lack of source material as a basis for comparison. As a result the source of comparative analysis tended to shift to internal comparisons between chiefdoms within the district. This proved to be very fruitful.

In the process of examining the correspondence, I happened upon the court evidence of two cases in the Supreme Court, one dealing with the Fokeng dispute and one with the Kwena ba Mogopa struggle. This court evidence provided an extremely rich and detailed insight into the consciousness of some of the leading protagonists in the struggles of the district, and formed the basis of the case studies of these two chiefdoms in chapters four and five. Coming out of these two court cases was a particular emphasis and focus on the questions of political authority and legal process and the relationship between, politics, law, ideology and 'customary' control over material resources. This particular emphasis provided the second main intervention of this thesis in its discussion of the relationship between political struggle and the legal process. Although in this respect there was some excellent anthropological work to refer to, (Comaroff (1977) and Comaroff and Roberts (1981)), I am not familiar with any previous examination of these processes in concrete struggles, (except perhaps in the works of Snyder (1981)). This factor has made the work very interesting and exciting for me, but has also severely limited the basis for comparison between the Rustenburg struggles and struggles elsewhere in the country.

A detailed comparative approach has therefore been less possible in some of the chapters than others. As a general rule, the comparison between localized peasant studies, although interesting, is not always useful, except to prove that local circumstances varied considerably in rural South Africa in almost every period.

Nonetheless, in this context I would like to mention the works of William Beinart on Pondoland (1982) and the Herschel district (Feb. 1984). I found these works to be inspiring as well as practically useful. They have informed both the method and analytical framework which I have attempted to apply to the analysis of the Rustenburg district. Although the material circumstances and political struggles in Pondoland and Herschel were distinct from those in Rustenburg, Beinart's approach is one which I found particularly fruitful. Obviously, only I can be held responsible for the final product, however.

Extensive reading in the Journal of Peasant Studies and the Journal of South African Studies has also provided a source of comparison (and a means of assessing my analytical method) which is not always explicit within the text itself. However, I have attempted in the introductory chapter to situate this thesis in the context of the wider literature, both in order to develop a theoretical framework which embroiders the historical analysis which follows and in order to specify the method which is being applied in the later chapters.

Ultimately, the particular focus on traditionally rooted legal disputes does limit the extent of my comparative analysis of the empirical data, especially in chapters four and five which deal most thoroughly with these disputes themselves. However, the centrality of chiefly control within these disputes, and the relationship between chiefs and the state administration, does facilitate broader discussion in the context of developments in other parts of the country and in relation other secondary literature, such as Rogers (1933) and Dubow (1986).

The vast bulk of empirical information and arguments presented in this work are drawn from primary sources, in particular the large quantity of unexplored correspondence in the Native Affairs files which relates to the Rustenburg district.

This thesis tells a story of political struggle. The background and underlying motivating forces are provided in the material conditions analysed and explained in chapter two. Chapter three examines the early struggles in the district and briefly discusses the influence (or lack of it) of national poliical organisations on the local politics in the Tswana chiefdoms and draws some comparisons with other areas of the Transvaal. Chapters four and five follow a general chronological pattern and tell the tale of the struggles in the Fokeng and Kwena ba Mogopa chiefdoms. These chapters contain a great deal of narrative history which in many respects 'speaks for itself' in outlining the complex and intriguing conflicts between rural peasants, chiefs and white administrators. The second last chapter examines the particular influences of Christianity and mission education on the politics of the Rustenburg chiefdoms and

draws some comparisons with mission involvement in Pondoland. The brief conclusions in chapter seven are founded on an interpretation of the information in the intervening chapters and are based on the analytical framework developed in the introduction.

The overall product is hoped to be a contribution to the very extensive literature on the nature of peasant politics. This thesis does not attempt to develop generalised conclusions from the very specific local circumstances examined. If anything, the contribution of this study is in its attempt to examine the local, introverted politics of an understudied region of rural South Africa.

Acknowledgements

The list of people who helped to make this research thesis possible is endless. Needless to say, the list of those that I am about to mention is undoubtedly incomplete. I hope no-one is offended. I must first thank the Human Sciences Research Council for providing finances which made this research possible, and the personnel at the State Archives in Pretoria who were extremely helpful and who enabled me to secure access to 'closed' files through an application to the Department of Co-operation and Development.

Most importantly, I would like to thank Prof. Phillip Bonner for endless patience and tolerance in supervising this M.A. thesis. It is just as well that he was not open to either bribery or begging, or this thesis would never have been completed. I would also like to express sincere appreciation to him for a great deal of sensitivity and understanding in respect of my non-academic commitments which often got in the way. My gratitude also to Thea Jarvis who did my typing and who will surely go to heaven.

I must acknowledge and thank the African Studies Institute of the University of the Witwatersrand and Belinda Bozzoli who provided me with access to material which I would otherwise have gone without. I must also thank Stefanie Sycholt for translating the mission records for me at an exceptionally low cost.

Finally, I would like to thank my parents for bailing me out financially at the final hurdle. I'm sure that their zealous concern for the progress of my research will be matched by their excitement at being able to read the end product! Appreciation is also due to Garth Klein, who 'shared the boat' at a very difficult time, and to Brian Leveson and Susan Levy who's support, concern and subtle pressure got me through the final straight. Also, Harry Dugmore and Cathy Eals who allowed me to ramble on endlessly about peasants and the like - and who actually appeared interested.

Lastly, I want to thank Orenna Krut, who proof-read, edited, held my hand, fed me and who provided the emotional sustenance so important to keeping me alive and writing. If I can do half has much for her someday ... I will.

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CHAPTER ONE INTRODUCTION

I. Peasants, Politics and Production

The subject of 'peasants and politics' has been the source of considerable debate in historiographical and anthropological writing. This debate has focussed primarily on the analytical definition of 'the peasantry', as well as attempting to unravel the definitive features of 'peasant' relations of production in capitalist societies and the nature and potential of 'peasant' political movements. It is not my intention to delve in any detail into these debates, but merely to extract some of the most basic features which inform the use of the term 'peasant' in the pages which follow, and which offer some analytical clarity to the discussion of specific groups of African rural producers in the Rustenburg district of the Western Transvaal during the 1920s and 1930s.

Frederick Cooper, in his review of some of the literature on peasant societies, notes the varied (and often completely opposite) interpretations of what the term 'peasant' implies.

> Some scholars consider the peasant response to expanding markets for produce since the nineteenth century to be the great success story of African economic history. To others, peasantry means poverty. To some, peasant society is hopelessly backward-looking and politically fragmented; to others peasants represent the one real hope for revolution. An occasional scholar is bold enough to generalise about the economic well being or political values of peasants all across Africa, while a few writers have recently wondered if peasantry is a very useful category after all".(1)

Cooper goes on to conclude that the notion of a 'peasantry'

> "... embraces the wretchedly poor and moderately prosperous, the progressive and the reactionary. Its only specificity is its ambiguity."(2)

It therefore appears that the only appropriate definition of the peasantry is a broad one which does not attempt to conceptualize 'peasants' as a single interest group. Thus, Saul offers a definition wide enough to include agriculturalists, pastoralists and migrant labourers with differential involvements in the cash economy.(3) Wolf simply states:

> "I define peasants as populations that are existentially involved in cultivation, and make autonomous decisions regarding the processes of cultivation."(4)

He notes that this definition includes tenants and share-croppers as well as owner-operators, but excludes landless labourers and cultivators ('farmers') who participate fully in the market.'(5)

This definition of the term 'peasant', therefore, includes a broad spectrum of productive relations. Cooper asserts that the ambiguity of the concept of a peasantry is its most valuable feature.(6) However, the danger of allowing such a conceptualisation to obscure the very real differences in the relations of production in different communities and time periods (as well as within any single community) is noted by Beinart who consequently avoids the use of the term.(7)

There are two basic analytical features utilized in defining 'the peasantry' which are common to all the works referred to thusfar. The first is that the peasantry is historically defined in the interaction between mercantile or industrial capitalism and 'traditional' socio-economic systems. The second, is the key role attributed to the dependence on family labour in defining peasant production. Nevertheless, beyond these basic assertions there is little wider agreement, and debate once again rages. This debate has tended to focus on conflicting interpretations of the historical effects of the interaction of capitalist and pre-capitalist relations of production, (and the analytical tools most appropriate to interpreting this) but is more fundamentally rooted in the nature and consequences of peasant involvement in the capitalist market and in wage labour. All of these aspects of peasants' relationships to the capitalist economy had a fundamental influence on the rural African politics of the Rustenburg district in the 1920s and 1930s. It is therefore important to frame some conclusions from within the debates so as to develop an analytical framework which will inform the discussions of political struggle which follow.

Karl Marx has argued that

> "As capitalist production develops, it has a disintegrating resolvent effect on all older forms of producton."(8)

In the African context this implies that penetration by mercantile capitalism, followed by colonisation and the establishment of industrial capitalist centres in the midst of pre-capitalist African

societies, tended to dissolve pre-capitalist forms of production. However, this general comment does not adequately explain the complex processes of proletarianization or class formation in African peasant societies. In particular the process whereby African substistence producers were integrated into the wage labour market demands further explanation.

W.A. Lewis argues that proletarianization was the consequence of market forces alone.(9) Lewis suggests that participation in the wage-labour market was dependent only on the wages being offered, providing that remuneration equalled that available to peasants operating in the 'subsistence sector' (10). He goes further to suggest that in African societies, the agricultural sector "is characterized by substantial 'disguised unemployment' where ... the marginal productivity of labour is negligible, zero or even negative" (11). Lewis isolates the capitalist sector from what he calls the 'subsistence sector' and suggests that it is exclusively the former that provides the potential for development. It is the capitalist sector which, through its utilization of the disguised unemployed in the wage labour market, will carry development, (and presumably the benefits thereof), to the undeveloped pre-capitalist economies.(12) Thus Lewis arrives at his 'dual economy thesis': the capitalist sector on the one hand, and the subsistence sector on the other, the two being linked through the labour supplied by the latter to the former through migrancy and by the 'inevitable' benefits of development which this entails.

Lewis does, however, recognise the potential threat to this development process which the peasant economy may pose, and conceptualises it in the general relationship of agriculture to industry. The growth of industry generates a growth in demand for agricultural foodstuffs. If the peasant economy accommodates this demand and is not stifled by the development of capitalist agriculture, this will serve to undermine Lewis' unlimited labour supply and force the capitalist to pay wages above the subsistence level (13). Lewis therefore suggests that it may be in the interests of the capitalist sector to inhibit the growth and technical advances of the peasant economy, in the interest of maintaining a cheap and plentiful supply of labour, but that this needs to be complemented by the development of alternative sources of food.(14)

Arrighi, in applying the Lewis model to the concrete Rhodesian experience, provides both a thorough critique of Lewis, and a periodized study of 'labour supplies in historical perspective'(15). Arrighi suggests that in Rhodesia, the 'disguised unemployment', identified by Lewis, was itself the result of the process of capitalist development and colonisation, which served to restructure and disrupt 'traditional' African societies. He argues that the establishment of white rule and 'Pax Brittanica' prevented Ndebele men, belonging to the upper castes, from engaging in martial pursuits, whilst the simultaneous alienation of cattle and land prevented them from "reallocating labour time to productive activities within the peasant sector"(16). Arrighi goes on to assert that through extra-economic coercion on the part of the

colonial rulers, and the economic slumps of 1921 and 1929, the independence of the peasant economy was irreversibly undermined.(17) Arrighi does, nevertheless, recognise that for the majority of the Rhodesian labour force, proletarianization was anything but a complete process. The wages earned in the industrial sector were well below those required for the full reproduction of the worker and his family, and particularly in the cost-sensitive gold mining industry, these 'bachelor wages' were crucial to the profitable extraction of surplus.(18) Arrighi therefore concludes that Lewis' 'subsistence wage' is based on the premise of ongoing production in the 'subsistence sector' and the independent reproduction of the family of the wage earner within the peasant economy. Accordingly, surplus extraction in the 'capitalist sector', is viewed by Arrighi as inextricably linked to the ongoing production of the 'subsistence sector'.(19)

Frank points out that Arrighi's arugment constitutes a comprehensive criticism of Lewis who treats the different sectors of the economy as being almost independent of each other in their development (or lack of it), except through the utilisation of labour available through disguised unemployment. Frank asserts that this 'dual economy' must in fact be seen as a unitary system and a capitalist one at that. Reproduction within the peasant economy is crucial to the profitability of the capitalist system as a whole and therefore must be seen as a part of it (20). Thus the process underlined by Arrighi is not so much the destruction of the pre-capitalist mode of production, as the destruction of subsistence wholly independent of the wage-labour market.(21)

In his pioneering work on the emergence and decline of the South African peasantry, Colin Bundy applies a similar analytical method to Arrighi and arrives at similar conclusions.(22) Bundy begins by critiquing the 'dualist' analysis of the South African economy as expounded in the works of Hobart Houghton.(23) He goes on to suggest that this critique is in fact appropriate to 'the liberal tradition of South African historiography' as a whole.(24) Bundy concludes his critique as follows:

> "... the crucial post-mineral period was one in which non-market forces predominated; in which discriminatory and coercive means were utilized by the wielders of economic and political power to disadvantage the African peasantry; and that an economy was created whose structure was such as to render 'market forces' highly favourable to the white capitalist sector. The decline in productivity and profitability of African agriculture - and the corollary of greater dependence by Africans on wage labour - is in an important sense the outcome of the nature of capitalist development in South Africa."(25)

Bundy goes on to identify the broad features of African proletarianization in South Africa. He claims that after the initial 'shock' of colonisation, farmer-pastoralists adapted considerably and attempted to meet their requirements through participation in the produce markets. Bundy asserts that this was initially encouraged by imperial and colonial authorities, as well as by missionaries.(26) He suggests that in the period prior to mineral discoveries African peasants avoided wage labour on white farms. Bundy also notes that the labour needs of white farmers, who were themselves "only shallowly involved in market production' were

best served by establishing 'quasi-feudal relations', which in many instances guaranteed absentee landlords a rent income and which simultaneously provided African rural dwellers with various forms of tenure on white farms.(27)

In the period after mineral discoveries, Bundy claims that the expansion of produce markets resulted in the spread of peasant production and entrepreneurial activities. This saw the development of greater innovation and diversification within African peasantries and in turn the emergence of a small group of 'well-off' peasants.(28) However, Bundy suggests that the gradual commercialization of agriculture and the 'intensification' of white political authority, combined with increasing demands for wage labourers, resulted in an assault being launched upon peasants' participation in the cash economy as sellers of produce rather than as sellers of labour. He suggests that there ensued a concerted attempt to coerce more wage labour, whilst simultaneously undermining Africans' participation in the produce market. Thus, Bundy identifies the early twentieth century as a period characterised by the extension of various extra-economic means to coerce the African peasantry into wage labour and the consequent increasing reliance by peasants upon migrant labour for a cash income.(29) Bundy quotes Arrighi suggesting that during this period "political mechanisms became of crucial importance in closing gaps between supply and demand."(30)

Bundy concludes by pointing out that the destruction of the peasant economy was by no means complete. In explaining why this was the

case, Bundy argues that by the second decade of the twentieth century, the African peasantry was so reliant on migrant labour and so patently incapable of local development, that an adequate supply of labour was ensured.(31) Bundy does, however, note the competing needs of white agriculturalists and industrial capitalists for available labour. He points out the continued reliance of white farmers on 'squatter' labour and suggests that even the 1913 Land Act, rather than resulting in immediate proletarianization, resulted in increasing labour-tenancy relationships on white farms.(32) Nonetheless, in view of the dominance of mining capital within the capitalist state, Bundy's central explanation for the partial survival of the peasant economy and the entrenchment of the migrant labour system is that:

> "For urban employers, it meant labour was kept cheap, unorganised, and rightless, that overhead costs were kept to a minimum and the formation of an urban proletariat was restricted."(33)

Bundy draws the conclusion that by the second decade of the twentieth century the decline of the African peasantry in South Africa was well under way and that this was reflected by the shift from labour migrancy as a discretionary means of earning a cash income, to a necessary one.(34) The central element in this process is identified by Bundy as being the process of land alientation, and following Frank he characterises the shortage of land as

> "the key to the status of inferiority, exploitation, poverty, lack of culture, in a word the status of underdevelopment ... of (peasants) who participate all to fully in the social process of capitalist development."(35)

Thus, Bundy asserts that the structural underdevelopment of the peasant sector in South Africa was the 'other side of the coin' of capitalist development.(36)

In both the examples discussed, Arrighi and Bundy assert that the peasant economies proved adept at responding to the market economy, through expanding their production and meeting their initial cash requirements by selling their surpluses. They both claim that it was only with the simultaneous exertion of extra-economic methods of control on the part of the conquerors, and the development of successful settler agriculture, that it became possible to restrict the independence of peasant subsistence, and create a dependency on wages earned in the industrial sector. This latter process is, described by both authors as a prolonged and often drawn-out one, partly due to the halting development of capitalist agriculture.

Both Bundy and Arrighi also note that proleterianization was only a partial or incomplete process, and claim that the peasant economy (until at least the 1930's) appears as much to have been 'preserved' as it was 'dissolved'. More specifically both authors assert that the very basis of surplus extraction through the migrant labour system, rested on the supposed reproductive functions carried out by the pre-capitalist sector. It is in this assertion that their analyses move beyond the crude dualism of Lewis and acknowledge the exploitative nature of capitalist domination in the colonial context. However, their conclusions are in turn based on a limited and often functionalist perspective of the peasant economy within the capitalist mode of production.

Firstly, both Bundy and Arrighi attempt to explain the processes of 'peasantization' and 'proletarianization' through the concept of 'peripheralization', or the incorporation of independent producers into the world system and the consequent 'development of underdevelopment'.(37) In so doing they attempt to explain the direction of change through the relationship of the household to the market, without any specific analysis of relations of production within the household or the 'peasant economy'.(38) Thus, Bundy locates the origins of the poverty of South African peasants in their initial prosperity in responding successfully to developing markets. He claims that these people became locked into the market and were therefore vulnerable to any attempt (by capital or the state) to change the form in which their contribution to the world economy was to be made.

Although Bundy acknowledges differentiation among peasants and points to the existence of a priveleged 'class' of peasants, who had preferential access to land and markets, produced more than others and who acquired better capital resources, at no point does he explain how this distinct 'class' maintained and reproduced their privileged access to resources and how they controlled and utilized labour. Bundy barely discusses the peasant household and hardly considers the impact of the market on relations of production within it.(39) Nonetheless, Bundy presents the stratification of peasant communities as a "predictable feature of the underdevelopment of a peasant community as a whole"(40) of which the barometer was increasing involvement in wage labour.

The second essential criticism of Bundy and Arrighi is closely linked to the first. The failure to root their analyses within the transition of relations of production within the peasant community, results in a rather stultified and static description of the peasant family (or household) - the key unit of production in peasant society.(41) As Cooper points out:

> "The identification of the household as the key unit of peasant production does not tell us how a household head can actually maintain control over family labour and the very forces that turned relatively subsistence-oriented households into peasantries - access to markets [and migrant earnings - G.S.] - sometimes undermined elders' control of young men and sometimes strengthened the family unit."(42)

Both Bundy and Arrighi present entry into the wage-labour market as a linear process which is generally associated with the inevitable process of underdevelopment. However, their failure to analyse the relations of production within the peasant household and indeed within the peasant community limits their perceptions of the reorganisation of family labour in order to use the migratory system. Migration was often discretionary rather than coerced and the proceeds often utilized to enhance rural production. Equally, the migrant system offered the potential for individual economic action and the possible withdrawal from large households and a degree of accumulation by new household units. The point is that migrant wages introduced a variable dynamic into the exercise of power in the peasant production process. Failure to come to terms with the transition of these productive relations within particular

peasant communities can only result in an oversimplified understanding of class formation within peasant communities. Thus Cooper points out that

> "Class formation looks different when viewed from inside. Rather than equating differentiation with class formation and reducing it to a universal characteristic of underdevelopment ... this should make scholars wary of a monolithic view of the relationship of agriculture and migrant labour as a slide from the former to the latter."(43)

This criticism appears to be of particular significance in the Rustenburg context. It will be shown that by the early 1920s, although some chiefdoms in the district displayed the symptoms of rural decline outlined by Bundy, others did not. The larger chiefdoms in the district were able to maintain some degree of continued access to land through land purchase, with the result that a high degree of migrant involvement in the wage labour market appears to have remained discretionary rather than coerced, at least until the 1930s.

The final criticism of Bundy and Arrighi is one of the most fundamental. Both authors present a functionalist and oversimplified interpretation of the relationship of production to reproduction, through which production is presented as the sphere of capitalism, while reproduction is that the 'atrophied' peasant community pushed into the reserves.(44) This functionalist interpretation of the role of African rural economies is characteristic of much of the revisionist history of the South African social formation and indeed of many other parts of

Africa.[45] In this view, the peasant economy is seen to subsidise the subsistence wages of the individual migrant worker by providing for the reproduction of the worker's family, thereby 'rationalising' low wages in the industrial sector.

Claude Meillassoux's work provides an excellent example of this analytical method and displays perfectly the functionalist and structuralist assumptions associated with it.[46] He claims that organic relations between the capitalist mode of production and the 'domestic economy' (or pre-capitalist mode of production) are established through the reproductive functions provided to the former by the latter. He goes on to suggest that the supply of labour and the low cost of that labour is due to the location of the reproduction of labour power within the domestic sector. Meillassoux suggests that this process is facilitated by the incomplete process of primitive accumulation and the establishment of 'reserves' in many African colonies which, by maintaining limited access to productive means, in turn services the exploitation of the domestic economy via the process of forced partial proletarianization.[47]

Meillassoux's explanation is located in the distinction between 'direct' and 'indirect' wages and the application of labour rent, basing the ultra-exploitability of migrant labour on the reproduction of labour power outside of the capitalist sphere, the costs of which are not accounted for in the wages paid in the capitalist economy [48]. It is through this analysis that Meillassoux arrives at 'the articulation of modes of production' as

a means of explaining continued production and reproduction in the domestic sector. He sees these functions as being performed primarily within the family which he identifies as a 'residue' of the domestic mode and which remains functional to capitalism. Thus Meillassoux asserts that the disintegration of 'the domestic pre-capitalist mode', or its dissolution, would result in the full costs of reproduction falling on the shoulders of employers in the capitalist sector. However, he suggests that the disintegration of peasant production in the reserves is inevitable, and so points to the contradictory trends of 'preservation' and 'dissolution' of pre-captialist relations of production, in which the attempts to develop and 'preserve' domestic production are mainly undertaken by the colonial state. In somewhat conspiratorial terms, Meillassoux also notes the fact that these reserves cannot be developed too extensively either, as that would equally threaten the reproduction of a partially proleterianized wage labour force (49).

Meillassoux's work tends, on the basis of the distinction between production and reproduction, to return to a somewhat crude dualistic approach. O'Laughlin criticizes the ambiguity of Meillassoux's distinction between production and reproduction where production is determinant, by quoting Marx on the question.

> "... every social process of production is, at the same time, a process of reproduction".

She suggests that Meillassoux's dualistic approach hangs on his narrow interpretation of reproduction as the 'biological reproduction of labour-power.'(51) As O'Laughlin points out, this

assigns the same determining role to the production of human energy as is assigned to production of the means of subsistence in Marxist theory. She goes on to note that under capitalism, the quantity, quality and value of the labour-power employed in capitalist production, are constantly altering with the evolution of the technical conditions of production and the state of the class struggle, and thus the capitalist mode of production is not organised in such a way as to assure the biological reproduction of a given supply of workers (52). Furthermore, Meillassoux fails to distinguish between the reproduction of 'labour' and 'labour-power'. Yet this distinction expresses the basic class relations of capitalism: labour alienated from the means of production. (In fact Meillassoux even refers to labour power within the 'domestic mode'). Therefore, as O'Laughlin points out, it cannot be assumed that the biological reproduction of the working class as individuals is a precondition for the reproduction of capital.

> "Capitalism can reproduce labour-power and the biological reproduction of workers is not a boundary condition for the accumulation of capital"(53).

This substantially undermines the analysis of pre-capitalist forms as purely functional to capitalism and goes further to suggest that capitalism is not simply able to 'organise' and order all social relations of production to its advantage.

Much of O'Laughlin's critique of Meillassoux is, however, rooted in a somewhat monolitic sense of the dominance and logic of capitalism,

often to the exclusion of the recognition of resilient pre-capitalist social relations of production - particularly in the politico-ideological realm.

> "If one does attend to the reproduction of the means of production, (rather than biological reproduction -G.S.), then the conceptual unity of the domestic community as a theoretical object is rent by the diversity of forms of land use in the pre-capitalist modes of production which Meillassoux groups in a single evolutionary category ... These differences, as well as the logic of capital, are important if we are to understand the uneveness of capitalist development"(54).

O'Laughlin tends to limit the meaning of reproduction in response to Meillassoux, and as a result, restricts 'reproduction' to an exclusively economic process. Thus she fails to incorporate within this notion a sense of politico-ideological reproduction, which itself maintains a certain dynamic of its own and resilience in the face of capitalist development. As a consequence, class definition under capitalism - defined in terms of relations to the economic means of production - is crudely transported into O'Laughlin's analysis of pre-capitalist modes of production.

Banaji's crucial contribution lies in his assertion that each mode of production is defined by its own laws of motion, and, in keeping with historical materialism, he asserts that the ultimate laws of motion of any mode of production must be class struggle (55). Whilst the laws of motion of capitalism are defined at the level of productive relations, there is nothing to suggest that this is common to all modes of production. Indeed, control over ideological

and political reproduction may well serve in pre-capitalist societies to define classes in concrete struggle.(56)

In conclusion, the analyses of Meillassoux, Bundy and Arrighi are severely limited by their functionalist bias. Their analyses of peasant society (or pre-capitalist or domestic modes of production) are restricted to the reproductive functions which these relations perform for capitalism. This denies the most dynamic feature of these peasant communities - their autonomous internal struggles and power relationships. Thus there is little analysis of why the migrant labour force is composed the way it is, particularly, as Bozzoli points out, with reference to the sexual and familial division of labour.(57)

> "The reproductive 'function' or 'place' is filled by someone, but who that someone is cannot be explained by reference to the internal nature of the concept 'reproduction'."(58)

The crucial consequence of this structuralist and functionalist methodology is that the complex and resilient processes of class formation and the establishment of political authority, as well as the ideological dynamic of peasant social formations are neglected. Without these considerations it is impossible accurately to analyse the effects of capitalist development on African social relations. The assumption of the reproductive functions performed by peasant production for capitalism, and the associated assumptions (as Bozzoli points out) that it is women who largely perform these reproductive functions within the African peasantry, cannot be verified or denied without an examination of the transition of social relations of production within particular peasant societies.

It is only through such an understanding of class struggle, rooted within the peasant community, that the resilience of 'peasant' social relations can be explained, giving a sense of reality to the ways in which forms and modes of production and reproduction interrelate. Indeed, this is the central assertion of Robert Brenner's exceptional article, in which he fundamentally challenges the functionality of all relations of production to capitalism.(59)

P.P. Rey's work promises a greater sensitivity to these processes of struggle and class formation within precapitalist relations of production. Rey, like Meillassoux, conceptualizes the peasantry through the 'articulation of modes of production'. However, unlike Meillassoux, he focuses his examination more microcosmically within the 'colonized pre-capitalist forms of production', specifically in Congo-Brazzaville.(60)

Rey focuses his discussion at the 'point of articulation': in the concrete class struggles and alliances within the 'pre-capitalist social formation'. Rather than seeing pre-capitalist modes of production as necessarily serving the ends of capitalism, Rey sees their continued functioning as a crucial hindrance to the expanded reproduction of capitalist relations. Conversely, he also makes the point that these pre-capitalist forms of production are indispensable to capitalist growth in the provision of both wage labourers and the agricultural means of subsistence - the latter, specifically because of the slow development of capitalist agriculture. Rey thus identifies the contradictory nature of the expansion of capitalist relations in the simultaneous tendencies of 'conservation' and 'dissolution' of pre-capitalist forms of

production. Brewer notes that Rey's originality is in insisting that this state of affairs takes so long, that despite the increasing dominance of the capitalist mode over time, "transition is the normal state of affairs"(61).

Rey's analysis does not fulfil its promise to elucidate the struggles internal to peasant relations of production. He merely implies that the maintenance of pre-capitalist political and economic relations is to some extent the result of the resilience of these relations and is not exclusively dependent on the relative strength or weakness of the dominant capitalist classes.

There are further problems with the analysis provided by Rey, the most notable being the tendency to return, through the notion of the two modes of production 'articulating' with each other to a dualistic model.(62) This tendency towards 'dualism' is implicit in much of the literature which falls within the 'articulation of modes' debate, as noted by Foster-Carter:

> "... capitalism neither evolves mechanically from what precedes it, nor does it necessarily dissolve it. Indeed, so far from banishing pre-capitalist forms, it not only co-exists within them, but buttresses them, and even on occasion devilishly conjures them up."(63)

Within this theoretical formulation two modes of production are identified as 'articulating' with each other, one establishing its domination over the other. It is even suggested that capitalism conjures up non-capitalist forms and social relations. This kind of argument assumes capitalism to possess some general mechanism which

identifies in exactly what direction 'its' interests lie, and calculates precisely how to fulfill them. (64)

Murray asserts that the 'articulation of modes' paradigm merely reproduces the functionalist bias outlined earlier.

> "The dissolution/conservation contradiction is an expression of the articulation of the capitalist mode of production with a pre-capitalist mode of production. Aspects of 'customary' behaviour in the labour reserve are identified as residual elements of the pre-capitalist mode which happen to be functional to the needs of capital. So long as they persist, it is difficult to discern, following this argument, at what point it would be possible to assert that a pre-capitalist mode no longer existed and that social relations were fully subsumed under capitalism. The suspicion remains, therefore, that advocates of this sort of theoretical dualism have implicitly endorsed an 'economism' that derives from 'the prior offense of capitalism in defining all relations in economic terms.'"(65)

A further criticism of Rey (and indeed much of the other literature reviewed here) is that he tends to deal with the process of 'articulation' almost exclusively at an economic level and is narrowly concerned with the economic implications of capitalist 'penetration'. Yet as a number of authors suggest, it is vital to acknowledge the importance of political, ideological and legal contradictions inherent in this process. For just as the economic infrastructure of these peasant societies is undermined, so too are the political relations and systems of law in these communities. Hence, O'Meara argues that

> "... the rich concept of mode of production must not be reduced to a much narrower one of an

> economic 'instance' or 'level', as (ultimately) the most significant of a number of other levels - a reduction which precisely renders inoperative the central assumption of historical materialism."(67)

Both Bradby(68) and more specifically Meillassoux(69) note the relatively autonomous politico-ideological dynamics of the 'pre-capitalist mode' and in particular the extent to which kinship operates as an ideology, often instrumental in the transformation and class stratification of these societies with the penetration of capitalism. Any analysis which fails to take cognisance of the revolutionary effect of capitalist development on existing forms of political and ideological control cannot come to terms with the transformation of class relations in their entirety.

In this vein, Wolf simply asserts that the development of capitalism had the effect of transforming both the politics and economics of subsistence producing communities. Hence he characterizes the expansion of capitalist relations as a "large-scale cultural encounter"(70) and suggests that capitalist development produced a crisis in the exercise of political power in these communities.

> "[Capitalism] creates 'free-floating' resources previously held fast by a tissue of social and political connections. It mobilizes economic resources and renders them amenable to new forms of allocation and use; yet in so doing it also cuts the tie between these resources and any connection they may have had with traditional social prerogatives and political privileges. It proves a powerful solvent of the integument of power, exacerbating tension not only through its own action, but freeing also tensions and contradictions previously contained by the traditional system of power."(71)

The complexity and contradictory nature of class formation within peasant communities under capitalism is inextricably tied up with the equally complex and contradictory nature of peasant politics. As Beinart suggests, the economic processes of the rise and decline of the South African peasantry, cannot be thoroughly understood in isolation from the nature, form and content of the political organisation and ideological expressions within particular peasant communities.(72) Indeed, in the rest of this thesis it will be argued that in the Rustenburg district of the Western Transvaal, the complexity of the social and economic dislocation wrought by the development of capitalist relations, can only be fully appreciated in the light of the particular political and ideological battles waged within the chiefdoms of the district. These struggles are themselves not reducible to either the 'effects' of conflicting modes of production or the assertion of control by the capitalist state. Rather, they have a less easily discernable dynamic and momentum of their own.

In the South African context, it takes little more than a superficial glance to identify the conflictual relationship between capitalist and non-capitalist economies - as witnessed by the Native Economic Commission Report in 1932.

> "The continued existence of a primitive subsistence economy in such close contact with an advanced money economy, as the two systems are in South Africa, must be expected to create serious maladjustments ... The conflict between the two must result either in the extermination or the absorption or the development of the backward race ... the Native economic question is therefore how best the Native population can be led onwards step by step in an orderly march to civilization ... The question is not primarily a problem of a small vocal, dissatisfied,

> semi-civilized group of urbanized Natives : it is primarily a problem of millions of uneducated tribal Natives, held in the grip of superstition and of an anti-progressive social system. The former group must be fairly considered and room must be found for them in the body economic. But their articulateness must not obscure the fact that they represent a less important part of the problem; that the real problem lies with the non-vocal millions; and that in many respects the approach to the problems of the former must proceed by way of the latter."(73)

The power of the ruling classes and their exclusive access to state power relative to the African majority, is equally easily visible. Yet the resilience of pre-capitalist social relations cannot simply be reduced to the exercises of 'conservation' or 'preservation' by the state or a monolithic self-interested capitalism. Indeed, it is only through an examination of struggles located within African peasant communities themselves that it is possible to come to terms with both their productive and ideological resilience, flexibility and adaptability. In the context of increasing dominance of capitalist social relations, it is necessary to explain why 'millions of uneducated tribal natives' were ostensibly 'held in the grip of superstition and an anti-progressive social system'.

This appears to be of particular relevance in explaining the politics of Tswana peasant communities in the Rustenburg district of the Western Transvaal during the first half of the twentieth century. In the discussions which follow, it will be argued that the processes of economic dislocation and class formation wrought within these peasant communities by the development of capitalist relations, found expression in political struggles which were rooted in the resilient cultural, legal and ideological framework of these

chiefdoms. It will also be asserted that these struggles, rather than being merely the by-product of manipulation by the ominpotent capitalist classes or the colonial state, were in fact expressions of vibrant processes of class formation internal to these peasant societies and were to play an important role in forging both state policy and indeed the particular form of capitalist development in South Africa.

II "Molao Sefofu, Obile Otle Oje Mong Waone - The Law is Blind, It Eats Even its Owner"(74) : Politics, Law and Ideology

It has been strongly asserted above that the effects of capitalism in the rural areas of South Africa cannot be thoroughly understood without examining its influence on the politics and law of rural communities. This in turn demands some understanding of political and legal organisation and power within pre-capitalist social formations, and of course, of the localized struggles within and around political and legal institutions.

It is surprising that changing legal forms and the transformation of legal ideas in the context of 'conflicting modes of production', is such an understudied area. The close correlation between political and legal authority in pre-capitalist African societies has been widely acknowledged in anthropological works (75). Yet, the 'legal sphere' as one of the principle arenas of politics and ideological struggle has been neglected. Indeed, the frame of reference of 'legal anthropology' has itself been questioned,

firstly on the basis of the claim that cross-cultural comparison offers very little; and secondly, because almost all of the studies in this field are based on a comparative analysis of Western legal concepts and arrangements (76). Comaroff and Roberts suggest that it is only when we challenge the 'normative' or 'rule-centred' paradigms reflective of the positivist orientation of Anglo-American legal theory, that it is possible to understand the politically contested nature of precapitalist politico-legal mechanisms (77).

This 'rule-centred' approach conceptualizes social life as rule-governed, and normal behaviour as the product of compliance with established normative precepts. Dispute acquires a pathological nature; it signals deviance or malfunction. Linked to this is a notion that societies do not cohere effectively in the absence of centralized authorities which formulate rules and ensure conformity with them. Thus 'law' is directly tied to authoritative social control. This approach is epitomized in Schapera's works on the Tswana (78).

In his 'Handbook of Tswana Law and Custom' as well as in Tribal Legislation Amongst the Tswana ... (79), Schapera presents richly detailed inventories of recorded rules in categories corresponding closely with those found in Western systems. These normative statements are presented as legal rules in that they constitute a code employed by judicial agencies to determine the outcome of disputes. Thus he refers to laws and customs as 'rules of conduct' (80), and goes even further to suggest that it is judicial enforcement which defines Tswana law:

> "The rules of conduct distinguished from the rest by this ultimate sanction of judicial enforcement may for all practical purposes be regarded as the laws of the Tswana."(81)

It is in this context that Schapera describes the "Tswana chief as 'law giver'"(82). This 'rule-centred' paradigm limits Schapera's analysis of the flexibility of Tswana law to a functionalist perspective of its 'usefulness'. Hence:

> "... among the Tswana tribes the chief has the acknowledged power to issue orders and frame regulations which, while in force, are part of the tribal law, but which may subsequently be changed, withdrawn or even neglected, when the need for them has passed."(83) (empashis added - G.S.)

Schapera does recognise that 'rules of conduct' must be popularly accepted before they become operational, but this is viewed only in formalistic and structural terms and ignores the political nature of the process of dispute within accepted legal norms. As a consequence Schapera interprets the influence of western civilization on Tswana legal culture through the view of formal chiefly legislation as the major agent of legal change.

Neither Gluckman nor Fallers are quite as mechanistic in their interpretation of the relationship between 'rule' and outcome in African legal systems.(84) Gluckman in particular stresses the flexible quality of Lozi rules, although in the final instance he does accord the indigenous normative order considerable significance in the determination of disputes. Both, however, continue to view 'law' as an irreducible phenomenon, rather than as an expression of relative political power.

The problem with the approach outlined thus far lies primarily in its postulation of an unproblematic relationship between 'rule' and 'decision' in the settlement process. This ignores the fact that the values attributed to stated rules, typically vary widely within any system and cannot be treated as homogenous 'rules of law'. Schapera presents the Tswana as a prime example of a small scale legal system markedly similar to western models in its conceptual foundations. But, as Comaroff and Roberts point out, the stated rules found in Tswana communities, known collectively as 'mekgwa le melao ya Setswana' constitute an 'undifferentiated repertoire', ranging from standards of polite behaviour to rules, the breach of which is taken extremely seriously.(85) Schapera, therefore, fails properly to identify or explain the complex relationship between existing rules of various kinds and the determination of the dispute process. Finally it should be noted that the ability of any party to effect a particular settlement, may rest on a legitimacy that varies over time and depends on political factors rather than on any non-negotiable jural authority.

> "The analysis of dispute settlement as an essentially legal activity may, in some contexts, obscure its political nature."(86)

In contrast to Schapera's structuralist perception, it is argued here that law in pre-capitalist African society should be viewed as a dynamic set of political procedures rather than static and rule-centered. In this view, dispute is seen as normal and inevitable rather than pathological or dysfunctional. In a similar vein, Comaroff and Roberts suggest that it is in social processes

and not institutions, that the analysis of 'social order' is ultimately to be grounded (thereby identifying a convergence of legal and political anthropology). They argue that 'laws' do not determine the outcome of disputes in a straightforward manner and that an understanding of the dispute process therefore requires a description of its total political and social context. Referring to the Tswana example, Comaroff and Roberts go on to make a crucial observation:

> "... rules may themselves be the object of negotiation and may sometimes be a resource to be managed advantageously. This fact in turn reiterates the self-evident need to regard the cultural logic of such rules and precepts, in whatever manner they happen to be expressed, as problematic."(87)

Thus, within this 'processual paradigm' the settlement process is viewed as an organisational and conceptual framework for competitive bargaining, transaction and compromise. In the marriage of political and legal anthropology, law is vindicated as a central arena for the expression of political struggles.

The critique of rigid jural determinism presented here, is central to an understanding of politico-legal struggle within pre-capitalist Tswana society. It remains true, however, that one can not simply lose sight of structures, institutions and socio-cultural order in any full understanding of social processes. It would be nonsensical to deny the normative element of social life. Comaroff and Roberts therefore identify the analysis of the relationship between rule and process as the central problematic in an understanding of African law.(88)

It is not in his identification of rules or norms affecting everyday Tswana life, that Schapera's analysis falls short. Rather, it is where these norms or rules are presented as an internally coherent set, suggestive of a causal relationship between rule and outcome, that the political process and dispute in Tswana law and custom are denied. By contrast, Comaroff and Roberts described these rules as consisting of a 'loosely constructed repetoire' rather than an internally consistent code. They suggest that whilst Tswana people themselves share the view that their 'normative repetoire' governs the regularity of daily life, they were not unaware of these rules occasionally contradicting one another nor, in fact, that almost any conduct or relationship was potentially susceptible to 'competing normative constructions'.(89)

This has crucial implications for an understanding of Tswana politics and ideology. Comaroff and Roberts claim that the Tswana social universe is both rule-governed, yet highly negotiable, ordered yet ambiguous, constrained yet competitive. The legal dispute process is associated with social control yet is an appropriate context for confrontation. It is such an understanding which informs Barkun's assertion that law.

> "... ought to be seen as a system of manipulable symbols." (90)

The understanding of legal negotiability presented here is also reflected in some analyses of the actual legal procedure characteristic of African justice. Van Velsen and Bohannan both

identify the informality and 'nonchalance' of African court procedure, as well as a preoccupation with reconciliation rather than the niceties of legal procedure, especially in the local headmen's courts as opposed to the courts of appeal.(91) According to Van Velsen, this notion of reconciliation is defined in a broad social context, in which court judgement is open to 'expediency and non-legal desirabilities' resulting in flexible judgement and often depending on overlapping political claims.(92)

This seems an appropriate explanation of Tswana pre-capitalist law and politico-legal dispute processes. Thus Comaroff and Roberts conclude:

> "Most of them (dispute processes - G.S.) involve confrontation either over the construal of facts in relation to agreed norms or over the normative evaluation of agreed facts; but whichever it is, value and meaning are negotiated, and this negotiation is predicated on shared symbolic categories and ideological assumptions ... themselves ... analytically comprehensible only by virtue of their relationship to the constitution of the socio-cultural order at large".(93)

In twentieth century South Africa, the 'wider socio-cultural order' which gives clarity to an understanding of the dynamic of Tswana legal systems, can only be properly explained in the context of the development of industrial capitalism in the midst of pre-capitalist African societies. The resultant pervasive processes of political and economic transformation cannot be isolated from the legal sphere as an arena of political struggle within Tswana peasant communities. In other words, it is argued here that it is within

the wider context of capitalist development, and the intrusion of historically derived capitalist legal precepts that African 'customary law' during the twentieth century (amongst the Tswana at very least) can be most fruitfully analysed as an historical site of political and ideological struggles. It therefore appears logical that these struggles within resilient traditional legal systems cannot be thoroughly understood in isolation from the jural processes under capitalism.

Pashukanis attempts to explain the form and content of these jural processes. He argues that to understand the role of law in capitalist society thoroughly, it is necessary to examine not only the content of laws (itself an important process) but the material derivation of the form of law itself. He suggests that the basic and peculiar character of law must not simply be dissolved into some notion of social control. Pashukanis argues that law cannot be seen simply as an 'external authoritarian regulation', but that it has a specific application and derivation in any specific epoch. He argues that historically:

> "the juridical element in the regulation of human conduct enters where the isolation and opposition of interests begins."(94)

He ties this closely to the emergence of the commodity form in mediating material exchanges. His basic materialist concern is to correlate commodity exchange with the time at which man becomes seen as a legal personality - the bearer of rights (as opposed to customary privileges). Through the material development of

commoditization, Pashukanis identifies the ideological development of the legal subject - a bearer of rights. Thus Pashukanis identifies the historically specific derivation of the form of law:

> "For production to be carried on as production of commodities, suitable ways of conceiving social relations, and the relation of men to their products, have to be found, and are found in the form of law."(95)

Pashukanis claims that it is only the constant transfer of property rights in the market place that creates the idea of an immobile bearer of these rights. In this way everyone becomes characterized by their abstract capacity to be a bearer of property rights and it becomes difficult to see anything other than subjects of rights. 'Legal fetishism' complements 'commodity fetishism'.

Thus Pashukanis provides a theoretical basis from which it is possible to derive the form of law as specifically capitalist. Yet, while he does this, he fails to develop his theory of law beyond the developmental phase. In the views of Jessop(96) and Binns(97), this restricts his understanding of the role of law as capitalism itself develops and changes. His definition remains technical and he fails to grasp the changing political function of the legal form.(98)

In a similar vein to Pashukanis, Louis Althusser identifies the basic function of ideology as being to transform individuals into 'subjects' through a process of interpellation. However, Althusser's analysis is distanced from Pashukanis' through the former's understanding of the relationship between law and ideology

under capitalism.[99] Althusser treats the problems of the subject and the 'imaginary' as equivalents - subjects exist in the imaginary. This ignores the fact of the juridical conception of the subject (of specific importance here), the simplest example of which is the concept of the legal subject. Legal subjects are entities, created through legal recognition, which are capable (in the form of law) of initiating actions and of upholding certain statuses (possession, responsibility etc.). Thus the existence of ideological subjects cannot legitimately be seen as merely part of an abstract imaginary relation, but must be seen to have a real and concrete effects. This would suggest that ideology, rather than being crudely determined in its function by the 'needs of the infrastructure', has a certain independent dynamic.

Cohen breaks down the simple 'base-superstructure' model which is implied in Althusser's analysis, only insofar as he suggests that ideology, rather than being crudely determined by economic forces in both form and content, serves in a 'relatively independent' way to reproduce social relations of production. His conclusion, however, is merely that 'bases need superstructures',[100] and as such he returns to a somewhat functionalist perspective. He approaches the subject of law in this way:

> "The content of the legal system is dictated (in the final analysis) by its function, which is to help sustain an economy of a particular kind."(101)

O'Meara, following Poulantzas, challenges this functionalist conception of ideology and suggests that it fails inherently to:

> "... transcend the fetishishized categories of economics and politics."(102)

Rather O'Meara suggests that:

> "... it (our analysis of ideology - G.S.) must begin with the historical development of capitalist production relations - the concrete process of class formation in class struggle, and the political and ideological forms this took."(103)

Poulantzas himself suggests that ideological formation takes place at the level of specific relations of production under specific historical conditions. Ideology comes to represent social relations embodied in "real material institutions" (104). Elsewhere he argues that any ideology contains within it elements of heterogenous 'class ideologies'. In other words, it is always possible to identify the class belonging of any ideology, or the elements of class belonging contained within it (105). He goes further to suggest that any dominant ideology, can contain within it elements of all the class-based ideologies of the different classes within the social formation. This notion seems however to approach another extreme, ignoring the complexity of the ideological relation and reducing it to a purely economically determined and essentialy class-based notion.

Laclau criticises Poulantzas as being class-reductionist in this respect. He acknowledges that class struggle is crucial to the transformation of ideologies and therefore their reconstitution, but he notes that this may be at the level of classes, which although

engaged in struggle, are not constituted as antagonistic classes strictly in terms of their position at the level of the mode of production (106). In other words, Laclau posits that this antagonism is not apparent at the abstract level of the mode of production but only at the level of the concrete social formation. This is particlarly useful in understanding the nature of ideology in the context of conflicting modes or forms of production, as it implies that, although particular ideologies when regarded in isolation, do not display a specific class derivation, when involved in concrete discourse, this discourse will have a class base.

This notion elevates the analysis of ideology from a simple superstructural distortion of infrastrucutral 'realities', to a more concretely based manifestation of classes in struggle. This is crucial to on understanding of ideological transformation in the process of capitalist development in the midst of precapitalist modes of production. It also tends to attribute greater autonomy to ideological forms of struggle. It is in this light that we must examine changing legal ideas and legal forms within the dominant capitalist mode of production, with specific reference to the imposition and consolidation of the capitalist state.

Snyder, in examining the example of Senegal, develops four theses on how capitalism affected legal ideas and institutions in formerly precapitalist social formations (107). Firstly, he identifies the general subsumption of pre-capitalist production within the capitalist relations of production. He claims that this process was accompanied by a transformation of rural legal ideas, related to,

yet distinct from changes in legal forms at the level of the state. Secondly, he points out that the penetration of different forms of capital had quite different effects on legal concepts in similar precapitalist formations. Conversely, the distinctive features of different precapitalist social formations shaped the effects of capitalist penetration and thus of legal change. Thirdly, Snyder makes an analytical distinction between changes in rural legal forms, and the 'creation of customary law', although the two processes were historically connected (108).

> "Contrary to widely held notions that customary law represents indigenous African law, 'folk law in the process of reception' or a neo-traditional ideology stemming from primarily political interests during the colonial period, customary law is not only relatively recent in origin, but also derived specifically from the subordination of African social formations to capitalist relations and was articulated through the state."(109)

Thus, 'customary law' was an ideological and legal form, which originated in the transformation of precapitalist social relations and the consolidation of the 'colonial' state. Snyder therefore depicts 'customary law' as an ideology of colonial domination, which supplied a framework for the insertion of rural classes into peripheral social formations.

> "Simultaneously, it expressed the subordination of these social forces to the dominant local classes and metropolitan legal ideologies associated directly with the state and ... capital."(110)

Fourthly, and finally, Snyder points out that despite the fundamental nature of these changes, the transition from one historical form of production to another, did not necessarily entail the replacement of rural legal concepts by legal forms often considered 'typical' of 'mature' capitalist formations, although many such forms are incorporated into the law of the state. Indeed, he suggests that this process of transition was usually accompanied by the 'conservation' of many precapitalist legal ideas. Snyder suggests that any appearance of continuity is misleading, because it conceals the changes in historically specific, concrete legal forms.(111)

In the South African context, Suttner, like Snyder, makes a distinction between 'customary law' and original African law.(112) He furthermore identifies the former as a specifically colonial phenomenon and reflects Snyder's suggestion that 'customary law' was a creation of the colonial state. Thus he notes that the 'benign policy of customary law' was only implemented after conquest, in an attempt to 'breathe new life into discredited chiefdoms and pseudo-tribal structures.'(113) Suttner describes 'customary law' and the segregated South African legal system in terms of their functions, which were to entrench the ideology of tribalism, thereby undermining the development of a 'national consciousness'.(114) Suttner goes on to argue that through the rigid application of 'tribal law' (based ostensibly on 'immemorial usage'), traditional family life and the oppression of women were entrenched, thereby securing the indispensable subsidization of the wage levels of migrant workers.(115) 'Customary law' is therefore also described in its functionality to capitalism.

A further indicator of the 'colonial status' of African law, has been widely identified in the 'repugnancy clause' which conditioned its implementation. In the South African instance this generally meant that African law was only recognized if its implementation was not 'repugnant to the general principles of civilization'.(116) Schapera, describing traditional African law as essentially 'backward-looking' and reactionary, suggested that 'customary law' acted potentially as a brake on the development of western civilization'. He identified the 'repugnancy clause' relating to customary law in British Bechuanaland, (under Government Proclamation No. 75 of 1934) as a potentially progressive measure of reform (117). By contrast, Richardson and Suttner have identified both the culture-bias and colonial state expediency characteristic of such measures (118). The inferior status of customary law, as well as the courts responsible for implementing it, are seen by both these authors to be reflective of the power of the colonial state over the African majority.

There are a number of problems with the analyses summarized thus-far. Firstly, both Suttner's and to a lesser degree Snyder's works provide little understanding of pre-capitalist legal systems from which to draw their analysis of cusomary law under capitalism. The suggestion that customary law is simply the 'creation' of the colonial state, denies completely the autonomy and resilience of traditional legal forms in the face of capitalist penetration and the intrusion of capitalist legal precepts. This denial is also reflected by both authors' largely functionalist explanation of the

process of 'conservation' of African law. Rather, in both form and content, the traditional legal system demanded 'recognition' due not only to its functionality to segregation or capitalism, but because of its centrality within the ideology of rural African communities. Secondly, pre-capitalist law is presented in these works as an undifferentiated unity, ignoring the crucial importance of its negotiability and flexibility. However, it is not possible properly to understand the insertion of pre-capitalist legal forms into capitalist social relations without acknowledging the political and ideological struggles taking place within 'this realm of social interaction'. To do so is to present pre-capitalist African societies as undivided and undifferentiated, or at least to suggest that the struggles within these communities have little or no bearing on the nature of their incorporation within capitalist social relations. Thus, African rural societies are presented only in relation to the omnipotent and manipulative colonial state.

Finally, it is not denied here that 'customary law' under capitalism takes on disfigured or degraded forms, nor that it is implemented in a rigid and often expedient manner, nor even that it serves to entrench many of the most oppressive and exploitative relations characteristic of pre-capitalist rural social relations. Yet all of these processes are merely described in 'terms of the needs of the colonial state or even, in Suttner's case, their functionality to the colonial ideology of segregation. None of these features can be properly explained without an analysis of developing class stratification within rural communities, which is specifically related to the increasing dominance of the capitalist mode of

production, and which is organically rooted within these communities. There is nothing specifically capitalist about the colonial state which Suttner describes, nor even the forms of law which he examines. The result is that, in the context of conflicting modes of production, Suttner is merely presenting description as explanation. He presents the 'tribalism', expressed in the segregated legal system, as an explicit counter to developing 'national consciousness', without ever examining the ideological and material rifts within African communities which give 'tribal identity' and indeed, 'tribal law', a dynamic of their own. In the political and legal struggles within the chiefdoms of the Rustenburg district in the 1920s and 1930s it is argued below that such a functionalist approach denies the very ideological dynamism and resilience which makes these struggles remarkable.

Just as Suttner presents the oppressed in a fairly undifferentiated way (119), so too does he present the colonial state as an undifferentiated unity of interests. It is through exclusive access to the state apparatuses that the ruling classes are seen to wield power. It is therefore suggested that control over the legal apparatuses of state, facilitates the entrenchment of ideologies which attempt to divide the colonized masses. It is precisely such functionalist and instrumentalist analyses of the state, that have been the focal points of criticism in recent literature on the subject(120). More specifically, in his conceptualization of the state, Suttner provides only a superficial discussion of the structures and institutions which compose the state as such.

It is to precisely this neglected area that Wolpe addresses himself in his critique of both the 'neo-Poulantzians' as well as their critics such as Clarke and Innes and Plaut[121]. He attempts to resuscitate the analyses of political and ideological structures of the state, freeing them analytically from the simplistic objective reproduction of pre-defined economic interests which reflect specific, structurally defined class interests.

According to Wolpe, Clarke's, critique of the neo-Poulantzians, is equally guilty of an oversimplified homogenization of the state into a simple integral instrument, and the simultaneous reduction of politics to economics. He claims that it is precisely this analytical error which that denies the state its complex, contradictory specificity.[112] The central point in Wolpe's objection is the denial of state structures as potential sites of political struggles and class conflict.

> "The object of the political struggle is to take the state/ instrument out of the hands of the dominant class, but since the state apparatuses (however conceived) do not consitute the sites of struggle, that struggle takes place only in 'society'. The state is exclusively the object of the class struggle, it is never a site of that struggle."(123)

Wolpe is asserting here, the Poulantzian notion that the state and its apparatuses reflect a 'condensation' or 'concentration' of the totality of class relations in society.[124]

Wolpe offers an interesting refinement to this argument, through asserting the limitation of access, or even exclusion from the

state, of particular classes or fractions of classes under certain circumstances. This in fact, he regards as indicating the 'materialization of specific class powers within the apparatuses of the state'. However, Wolpe notes that this process of 'access or exclusion' operates in an uneven way, changing over time and varying from one state apparatus to another. Thus Wolpe emphasizes the notion that access to the state apparatuses is at least potentially open to the dominated classes.(125) But although he indicates that different state apparatuses or structures are not equally accessible to organization of contending classes, Wolpe does not provide any systematic analysis as to why, or as to the features which define the differential 'accessibility' of different state structures.

In addition to this Wolpe tends to confuse the contradictions between different state apparatuses, and those within a single state apparatus. The result is that we are left with a rather conflated and generalised picture of competing classes or fractions of classes, organized within various state structures. The most important point to draw from Wolpe's analysis seems, however, to be the fact that it provides the basis for a detailed conception of state apparatuses as operating potentially, for a shorter or longer period, and to a greater or lesser degree, so as to contradict certain conditions of reproduction of the capitalist social formation.

This is of obvious relevance to the South African social formation as the process of access to and exclusion from the various state

apparatuses, has taken a particular racial form and has historically had far-reaching consequences. Kaplan presents the differentiated access to different juridico-political structures, as being based on continued black access to land, which provided the :

> "... material basis for the maintenance and transformation of the South African State, of a differentiated juridico-political structure, broadly under the rubric of 'tribalism'".(126)

In this manner Kaplan identifies the isolation of black workers from access to the state. Wolpe significantly points out that this differentiated position cannot be seen exclusively in terms of the statutory rights of blacks as opposed to whites, but nonetheless, notes that the specific category of the 'black subject' is a condition of access to certain types of state apparatuses, such as local councils for example, or even the local sources of legal authority - the chieftaincy, the 'tribal' court or council and the Native Commissioners courts. Of particular importance here would be the relationship between rural communities and local bureaucratic state administration (in the 1920s and 1930s, the Native Affairs Department (N.A.D.)).(127) In the chapters which follow, it will be demonstrated that in the Western Transvaal during the 1920s and 1930s the primarily point of contact between the state administration and the rural African population, was through the institution of the chieftaincy. Whilst chiefs were increasingly incorporated within the N.A.D. bureaucracy in the era of segregationist ideology, they simultaneously remained 'accessable' to their subjects as a product of the imperative that they remain 'popular' in order to carry out the needs of the administration

effectively. This same period also witnessed substantial dislocation and conflict in the activities and administrative priorities of the Department of Justice as opposed to the N.A.D. As a result, access to the 'white courts' during the 1920s and 1930s provided a loophole for challenging the legal jurisdiction and the political authority of chiefs and consequently of the N.A.D. administration itself.

However, Wolpe's analysis remains generalized. As mentioned, at no point does he define the terms of 'accessibility' to particular state apparatuses. He merely distinguishes between 'ideological state apparatuses' and 'repressive state apparatuses', failing to provide a conceptual analysis for this distinction, whilst suggesting that the latter institutions of state are inclined to be more exclusive. He asserts the autonomy of local state institutions to the extent of almost completely ignoring the role of the centralized state in co-ordinating, organising and controlling the operations of its various branches. Indeed, the altering functions of particular branches of state over time, visible only through historically specific analyses, tends to belie the distinction which Wolpe makes between ideological and repressive apparatuses, especially when considered in the context of broader initiatives of the central state. In the 1920s and 1930s for example, the N.A.D. employed several methods which entailed a blend of both ideologically co-optive and repressive strategies. Despite this, his analysis refines the understanding of the state provided by either Suttner or Snyder, and it remains to situate our analysis of 'customary law' in South Africa within this framework.

In twentieth century South Africa, 'customary law' was neither universally recognised nor applied within the country. The varied application of 'customary' legal systems depended in large part on differential patterns of colonization. In the Cape Colony where all legal power was in the hands of the magistrates, 'tribal law' was outlawed and considered contrary to the interests of civilization. In Natal, where Africans were ruled through their hereditary chiefs, African customary law was recognised and codified, whilst still elsewhere, although customary law was recognised, it was based on the precedents of case histories rather than being codified. Whether on the basis of codification, or through case histories, it is apparent that the application of customary laws within the white courts tended to entrench crude and often completely outdated 'traditions', generally gauged from the practices of the oldest generations of tribespeople and denying any flexibility in the application of law in a transformed social environment. The result was often an incongruence of 'customary law' with new forms of participation in the economy, and with a transformed socio-cultural environment resulting from the development of capitalism. Many material developments in the rural African economy were simply foreign to Africans prior to the penetration of capitalist relations and as such, were simply not covered by pre-capitalist tribal law.

It is evident that stated rules which traditionally have their roots in pre-capitalist social relations, cannot simply be seen to have had the same relevance in determining the course of the politico-legal process in 'a straight forward manner in the period

of capitalist penetration.'[128] This is precisely what gives rise to Snyder's suspicion of any apparent continuity in legal forms across this transitionary period. It is useful here to note Burman's notion of the 'symbolic dimensions of law'. Burman claims that laws often symbolise conflicts in society apparently unconnected with the exact subject matter to which they refer.[129] He suggests that in a colonial situation, the law, supposedly cognisant of the social alterations resulting from colonization, is nominally to act as an agent of change, but serves rather as an assertion of domination.[130] Thus, the concept of 'the symbolic dimension of the law' is of some importance in understanding the manipulative nature of the process of legal transformation, in particular reflected by the 'official recognition' of tribal law (where it did not conflict with civilized principles) in the era of developing segregationalism.[131] The fact that 'tribal law' was in some instances recognised but not specifically codified, did not limit the extent to which it was manipulated by state officials entrusted with applying it, nor did it mean that its application was any less disfigured. In fact, the lack of formality of applied customary legal systems provided for greater fluidity in their application by the state, as well as allowing for greater ambiguity in defining the role of traditional legal authorities such as chiefs. In the Rustenburg district during the 1920s and 1930s the 'elasticity and flexibility' of customary law was consequently regarded by N.A.D. officials as its most valuable asset in controlling the rural African population.

However, Comaroff identifies the 'jural determinism' which characterised the application of Tswana law by state officials in the Western Transvaal during this period. He suggests that these laws were interpreted on the basis that "stated rules configure the basic facts of political life"(132). Particulary, in terms of the rules associated with access to political and legal power, it was assumed that these rules actually determined the recruitment and functioning of incumbents in the public arena.(133) This jural determinism is reflected within Schapera's 'rule-centered' paradigm. Whilst accurately pointing out that social and territorial organisation amongst the Tswana was functional to the delegation of matters of more local concern to sub-ordinate authorities, Schapera goes considerably further in asserting that:

> "The Chief is the central figure around whom the tribal life revolves, and through whom the activities of the tribe are ordered and controlled. He is at once its rule and its judge, maker and guardian of its law, and director of its economic life, and in the olden days was also its leader in war and its principal priest and magician."(134)

He also suggests that it is primarily through allegiance to the Chief, that members of the Chiefdom express their unity. This view was clearly reproduced within state strategies in the period under review, as witnessed in the report of the Native Economic Commission of 1930-32:

> "In view therefore of the position of the Chief in Bantu psychology he can become a strategic point in the governments dealings with the Natives."(135)

In view of the developing state strategies of segregation and 'retribalisation', and the central strategic importance of the chiefs as a source of political and ideological control within these strategies, it is hardly surprising that from the mid 1920s state officialdom attempted to assert a rigid control over the laws of accession and incumbency.

Indeed, as will be demonstrated in the chapters which follow, the Chief was to become a salaried state official - a junior partner in the political and legal administration of rural African communities. Yet the application of such narrowly interpreted 'traditional rules' attempted to preclude any competition for chiefly power, and reflected manipulation by the state and the disfiguring of traditional legal forms themselves. The interpretation of these laws was rooted in the assumption that access to power, and the political control of a particular Chief, was strictly dependent on hereditary factors. Comaroff suggests that this was not at all in keeping with the realistic functioning of the Tswana political process (136). This is not to dispute the fact that the Tswana held a high esteem for the position of chief, but merely to assert that they made a clear distinction between the office and its incumbent (137). Comaroff argues that although the Chief's position was hereditary, his power depended both on his individual ability as well as his accessibility in consultation and popular participation in the affairs of the Chiefdom. This demanded that the Chief take guidance from his immediate advisors who made up his council or 'legotla', and that he remained susceptible to views and sentiments expressed both at this more executive level, as well

as at public meetings or 'pitsos', at which important matters of the Chiefdom were discussed with the broader community. Ultimately, as supreme judicial body, the Chief's decisions were expected to reflect the majority views. None of the Chief's rights were totally irreversible. Rather, should the Chief have consistently abrogated the formal responsibilities of his office, he stood to lose those rights.(138)

The rules of accession, incumbency and regency in Tswana legal systems can be seen to have provided a rather fluid framework within which the process of competition for political-legal power was articulated. Therefore, as pre-capitalist mechanisms of political and legal authority such as the chieftaincy were increasingly incorporated within capitalist state institutions, so too were the resilient politico-ideological struggles which historically characterized these institutional forms. This does not mean that the form of law remained unaltered. The rigidity and inflexibility which characterized the state's application of 'customary' laws of accession in African communities, has been noted and does, despite the critique of Suttner, reflect the organised power of the capitalist state. Nowhere is this more apparent than in the absolute powers accorded to the institutional officialdom responsible for its application - from the Governor-General or Minister of Native Affairs in his capacity as 'Supreme Chief', to the local Native Affairs Commissioners or local Chiefs themselves. Through the 'preservation' of so-called traditional legal and political systems the ideology of 'tribalism' does appear to have been perpetuated and even appears to have facilitated developing

state segregationalist strategies as Suttner claims. Furthermore, the apparent threat of developing national conciousness was explicitly recognised by the Native Economic Commission Report of 1930-32:

> "The growth of a Native nationalism or race consciousness is a factor which ... cannot safely be ignored or suppressed."(139)

The role which 'traditional tribal' institutional forms were to play in the co-optive state strategy of retribalisation, was equally explicit in the Commision report. It was described as foolhardy ...

> "... to disregard the institutions which they (Africans - G.S.) understand, which they prize, which can be used with the least friction and cost ... By using Native institutions as part of the administration of the country, we shall give the Native a pride in the administration. By rejecting his institutions as worthless, or by giving them a European complexion even if we use them, we create in the mind of the Native the feeling that he is an outsider. Instead of enlisting the co-operation of the natives such action leaves them indifferent ... it even at times stirs up their active opposition."(140)

This appears to vindicate Suttner's perspective on the ideological function of 'customary law'. This ideological role was, however, neither uncontested nor uncontradictory. Firstly, the apparent 'attempt to breathe life into discredited pseudo-tribal structures', often tended to contradict the N.A.D. rhetoric of 'adapting and civilizing the Native' as expounded in the same Native Economic Commission Report (141). More importantly, the internally contradictory ideological struggles within resilient pre-capitalist politico-legal institutions should not be ignored. The disfigured

forms which characterised these institutions under capitalism did not necessarily alter their centrality within the ideological framework of rural Africans. Nor for that matter did the historical struggles within Tswana politico-legal systems, already outlined, simply disappear. On the contrary, these struggles had a dynamic of their own and, within a changing socio-economic environment, continued to give political expression to ever-increasing, complex class formation. The very 'flexibility and elasticity' of applied customary law which was 'essential' to the N.A.D. control over politico-legal processes within rural African communities provided a loophole for the ideological expression of competing material and political claims within the Tswana chiefdoms of the Rustenburg district in the first half of the twentieth century. Furthermore, it will be argued in the chapters which follow that the often conflicting administrative and political priorities of the N.A.D. and the Department of Justice opened this loophole even wider with the result that these struggles were often finally fought out in the highest courts in the land.

It is only as the historical product of these struggles that state initiatives towards formal political segregation can be thoroughly understood. This in no way compromises the analysis of the capitalist state as an expression of class power, but through situating such power in the context of political class struggles, our analysis is delivered from functionalist and structuralist illusions.

In conclusion it is clear that the increasing dominance of capitalist social relations over resilient and dynamic economic, political and ideological relations in peasant society is a process fraught with contradictions. These operate not only at the level of relations of production but of reproduction as well. It is essential that we recognise that capitalism does not simply organize all social relations to 'its' own advantage under these circumstances. The ongoing existence of certain 'pre-capitalist' institutional forms and social relations, is often a product of their own internal dynamic, rather than merely being ordered or 'preserved' by the dominant classes under capitalism. It is this perspective which accords dynamism to the localized political and ideological struggles within rural African communities and which illuminates the particular forms of resistance, conciousness and struggle in these communities.

The form and content of these struggles cannot be interpreted in isolation from the dominance of capitalist social relations and the intervention of the state, both at a local and at a centralised level. Nonetheless, in analysing these latter processes, it is most important to guard against teleology and the use of labels and terms such as 'peasantization', 'proletarianization' or 'peripheralization', which carry an implication that these things simply happen, and delude us into thinking that we understand the nature and causes of processes which are merely described rather than explained. The uniformity which terms such as these sometimes suggest, blurs the relationship between rural African communities and the wider capitalist system. The consequence is an implicit assumption that

> "... all Africans, however much they have resisted and however much they have bent the nature of agriculture and work in particular directions, are all headed into a unitary category."(142)

As Cooper points out :

> "We must be careful of seeing change as a roadway when the most important changes are taking place in cul-de-sacs"(143)

The word 'peasant' is, at best, useful as a descriptive term, which makes no pretence at conceptualising specific relations of production. It is therefore pointless to pursue a 'peasant' political conciousness in general terms or in a social formation that has not been specified. It is only as a part of (and as reflective of) the complex and often contradictory processes of class formation within particular rural African communities, that it is possible to fruitfully examine the political and ideological struggles within these communities. This is not to suggest that all such struggles can be reduced to a 'class discourse', but rather to assert that the political and economic priorities of particular 'peasant' groupings are best exposed through the perception of the overlapping interests and concerns of rural cultivators, rural workers and urban workers, rather than through the isolation of the culture and politics of supposedly unitary categories. It is therefore with this in mind that our attention is now turned to the specific material conditions experienced by the peasants of the Rustenburg district during the 1920s and 1930s.

CHAPTER ONE - FOOTNOTES

1. Cooper, F., 'Peasants, Capitalists, and Historians: A Review Article', Journal of South African Studies, Vol. 7, No. 2 (April 1981), p. 284. For a Sampling of definitional exercises of 'the peasantry' see : Fallers, L.A., 'Are African Cultivators to be called 'Peasants'?', Current Anthropology, 2 (1961), pp. 108-10; Saul, J.S., and Woods, R., 'African Peasantries' in Shanin, T., (ed.) Peasants and Peasant Societies, Harmondsworth : Penguin, (1971), pp. 103-14; Ranger, T., 'Growing From the Roots : Reflections on Peasant Research in Central and Southern Africa', Journal of South Africa Studies, Vol. 5 (1978), pp. 101-7; Shanin, T., 'Peasantry as a Political Factor' in Shanin, T., (ed.) Peasants, op cit., pp. 238 - 263; Wolf, E.R., Peasants, Englewood Cliffs N.J.: Prentice Hall (1966); Wolf, E.R., Peasant Wars in the Twentieth Century, New York : Harper and Row (1969); Shivji, I., 'Peasants and Class Alliances', Review of African Political Economy, No. 3, (May/Oct. 1975), pp. 11 - 19; Molepo, M., Peasants and/or Proletariat? A case study of a group of migrant workers at Haggie Rand Limited from Molepo tribal village', African Studies Institute Seminar Paper, Johannesburg : University of the Witwatersrand (Sept. 1983); and Cohen, R., 'From Pesants to Workers in Africa' in Gutkind, P., and Wallerstein, I., (eds.) The Political Economy of Contemporary Africa, Beverley Hills : Sage (1976).

2. Cooper, F., 'Peasants, Capitalists, and Historians', pp. 284-5. Cooper also suggests that despite the endless pages devoted to discussion and definition of the 'peasantry' none of these discussions has come any closer to resolution than that of Theodor Shanin which provided a 'simple and sensible' definition. Shanin writes, "The peasantry consists of small agricultural producers who, with the help of simple equipment and the labour of their family, produce mainly for their own consumption and for the fulfilment of obligations to the holders of political and economic power". Shanin, T., 'Peasantry as a Political Factor' in Shanin, T., (ed.) Peasants, p. 240.

3. Saul, J., 'African Peasants and Revolution', Review of African Political Economy, Vol. 1, No. 1 (1974), p. 47.

4. Wolf, E.R., Peasant Wars, p.XIV

5. ibid. Wolf distinguishes the 'peasant' from the 'farmer' as follows : "To ensure continuity upon the land and sustenance for his household, the peasant most often keeps the market at arms length, for unlimited involvement in the market threatens his hold on his source of livelihood. He thus cleaves to traditional arrangements which guarantee his access to land and to the labour of kin and neighbours. Moreover, he favours production for sale only within the context of an assured production for subsistence ... In contrast, the farmer enters the market fully, subjects his land and labour to open competition, explores alternative uses for the factors of production in the search for maximum returns, and favours the more profitable product over the one entailing the smaller risk." ibid., pp. XIV - XV. Both Bundy, C., 'The Emergence and Decline of a South African Peasantry', African Affairs, 71 (1972), p. 371; and Saul, J., and Woods, R., 'African Peasantries' in Shanin, T., Peasants, pp. 103 - 114; follow Wolf's broad definitions.

6. Cooper, F., 'Peasants, Capitalists, and Historians, p. 286.

7. Beinart, W., The Political Economy of Pondoland 1860 - 1930, Cambridge : Cambridge University Press (1982), p. 12. In this light it should be noted that the references to 'peasants' by myself in the rest of this work are used loosely and do not presume to refer to specific relations of production exclusively. It is hoped that where appropriate these relations of production are thoroughly discussed in the context of the Rustenburg district during the 1920s and 1930s without resorting to any simplistic or convenient shorthand.

8. Marx, K., quoted in Clarke, J., 'Some Problems in the Conceptualization of Non-capitalist Relations of Production', Critique of Anthropology, Vol. 2, No. 8 (Spring 1977), p. 59.

9. Lewis, W.A., 'Economic Development with Unlimited Supplies of Labour', in Agarwala, A.N., (ed.), The Economics of Underdevelopment, New York : Oxford University Press (1958).

10. ibid., pp. 409, 431-6.

11. ibid., p. 404 In this regard, he refers not only to the field of agricultural production, but specifically refers to the role of women in domestic labour, suggesting that this is dependent on 'religious and conventional' factors and is "... certainly not exclusively a matter of employment opportunities".

12. Lewis is quite explicit about this in his discussion of the roles of 'wives and daughters' in the economy.

"The transfer of women's work from the household to commercial employment is one of the most notable features of economic development". ibid., p. 404.

Lewis' failure to understand the continued emphasis of the woman's role' in reproduction, and thus the double burden which wage labour often entails, is indicative of his more general failure to understand the exploitative nature of capitalist wage labour and relations of production.

13. ibid., pp. 431-4.

14. ibid.

15. Arrighi, G., 'Labour Supplies in Historical Perspective', Journal of Development Studies, Vol. 6, No. 3 (April 1970), pp. 197 - 234.

16. ibid., p. 202.

17. ibid., p. 204. This was coupled with the additional growth and increasing success of settler agriculture during the 1950s.

18. ibid., pp. 206 - 16.

19. ibid.

20. Frank, A.G., Capitalism and Underdevelopment in Latin America, Monthly Review Press (1969); and 'The Development of Underdevelopment' in Frank, A.G., Latin America : Underdevelopment or Revolution, Monthly Review Press (1969). It was in his critique of Frank, that Laclau, E., 'Feudalism and Capitalism in Latin America', New Left Review, Vol 67 (May 1971)., initiated the contemporary debate focused on the articulation of modes of production.

21. The Kenyan example demonstrates some interesting contrasts as well as similarities to that of Rhodesia. Van Zwanenburg shows that up until 1940 the Kenyan peasantry were able effectively to resist the pressures exerted on them to enter the wage labour market. He suggests that this was primarily due to the failure of white settler farmers to develop an alternative source of agricultural production to that of the peasant commodity producers. Van Zwanenburg, P.,

'Kenya's Primitive Colonial Capitalism', Canadian Journal of African Studies, Vol. 9, No. 2 (1975), p. 282. Van Zwanenburg further relates this to the divergence of interests of the white settlers and the colonial government, suggesting that this limited the settlers' access to state power and extra-economic means of coercion. Ibid., pp. 291 - 2. Yet the extent to which the dominant classes in Kenya were simply too weak or too disorganised to destroy non-capitalist production needs to be evaluated. Sorrenson notes that the process of land alienation and the establishment of tribal reserves was underway as early as 1904. The main function of these reserves, he suggests, was to create a migrant labour force which still had access to land rights, in their tribal areas. This was seriously threatened by the development of class statification within these reserves and the resultant accumulation of land by a few, denying access to land for the bulk of the population. Sorrenson, P., Land Reform in the Kikuyu Country : A Study in Government Policy, Nairobi : Oxford University Press on behalf of the East African Institute of Social Research (1967), pp. 28 - 40. Also see Leys, C., Underdevelopment in Kenya, London : Heinemann (1977), esp. pp. 30 - 5. This view is further elucidated by Furedi, who describes the Nairobi 'crowd' of the late 1940's as being made up largely of the marginalised sector of the population, who had no access to an alternative means of susbsistence, and who were unemployed due to the inability of Kenyan industry to absorb them. Furedi, F., 'The African Crowd in Nairobi', Journal of African History, Vol. 14, No. 2 (1973).

22. Bundy, C., The Rise and Fall of South African Peasantry, London : Heinemann (1979). The references in the following few pages are from Bundy, C., 'Emergence and Decline', which largely summarizes his longer work. Keegan, T., 'The Sharecropping Economy : African Class Formation and the 1913 Natives Land Act in the Higveld Maize Belt of South Africa' in Bozzoli, B., (ed). Town and Countryside in the Transvaal, Johannesburg : Ravan Press (1983) pp. 108 - 27, describes Bundy's studies as 'pioneering work' on the South African peasantry.

23. See Houghton, H., Some Economic Problems of the Bantu in South Africa, Johannesburg : S.A.I.R.R. Monograph Series, No. 1 (1938).

24. Bundy, C., 'Emergence and Decline', p. 370.

25. ibid., p. 371.

26. ibid.

27. ibid., pp. 371 - 2. On this point Cooper notes the importance of the existence of such 'quasi-feudal' arrangements well after the discovery of minerals. In criticizing the limitations of Bundy's analysis Cooper says : "While far from an antiquated labour system distinct from capitalism, the various forms of labour tenancy represent a particular type of solution to the problems of control and supervision of farm labour, made essential by the resistance of cultivators to their total cut-off from the land and to capitalist work discipline. Its abandonment went along with an escalation of the ever-present coercion." Cooper, F., 'Peasants, Capitalists and Historians', P. 292. For a thorough discussion of the evolution of landlord/tenant relationships, see: Trapido, S., 'Landlord and Tenant in a Colonial Economy : the Transvaal 1880 - 1910', Journal of South African Studies, Vol. 5, (1978), pp. 26 - 58; Keegan, T., 'The Sharecropping Economy'; Keegan, T., 'The Restructuring of Agrarian Class Relations in a Colonial Economy : The Orange River Colony, 1902 - 10', Journal of South African Studies, Vol. 5 (1979), pp. 234 - 54; Morris, M.L., 'The Development of Capitalism in South African Agriculture : Class Struggle in the Countryside', Economy and Society, 5 (1976), pp. 292 - 343; and Delius, P., and Trapido, S., 'Inboekselings and Oorlams : The Creation and Transformation of a Servile Class' in Bozzoli, B., (ed.), Town and Countryside, pp. 53 - 88.

28. Bundy, C., 'Emergence and Decline', p. 372.

29. ibid.

30. ibid., Arrighi, G., 'Labour supplies'.

31. Bundy, C., 'The Emergence and Decline'.

32. ibid., p. 384. Bundy notes that this process "effectively put the brake on the process of class differentiation in African rural areas, thus inhibiting the growing group of small commercial farmers, potential competitors with white farmers. This slowing down of stratification (or 'class suppression') also meant avoiding the creation of a permanently landless majority of Africans, whose urbanization

would have further drained the supply of rural labour, as well as posing a potential political threat." ibid. (original emphasis). See also footnote 27 above.

33. ibid., p. 372.

34. ibid., p. 386.

35. ibid. and Frank, A.G.; Capitalism and Underdevelopment.

36. Bundy, C., 'Emergence and Decline', p. 388. This view is also taken by Johnstone, F.R., 'White Prosperity and White Supremacy in South Africa', African Affairs, 275, 69 (April 1970).

37. See Cooper, F., 'Peasants, Capitalists, and Historians', p. 288.

38. Cooper, F., ibid., suggests that this weakness reflects the theoretical errors of underdevelopment theory more generally.

"... it substitutes a grand teleology for analysis of causation and process; it gives the market a deterministic role in the world economy and either ignores production processes or treats them as mechanical derivatives of world market structures; it fails to consider the distinctive class structures of non-European societies and the various means by which upper classes restructured themselves to meet the demands of world markets; and it leaves the struggle of cultivators, peasants, and workers against capital as little more than transitory and futile gestures in the face of the inevitable course of the world economy."

39. Cooper, F., ibid., p. 290 characterizes this shortcoming as follows:

"This missing step in his [Bundy's] logic has much to do with underdevelopment theory, which suggests that one can derive a class structure directly from the nature of a region's connection with world markets, and such short-cuts are abetted by the tendency to consider 'peasant' a sufficient description of a form of production."

40. Bundy, C., Rise and Fall, p. 133. I feel it necessary to reiterate here the fact that the seminal articles by both Bundy and Arrighi broke new ground and paved the way for later materialist analyses of peasant societies. Indeed, it is a testimony to the excellence of these articles that almost fifteen years after they were written, they still have a relevance well worthy of discussion in the more recent literature.

41. As noted earlier, the reliance on family labour as a central feature in defining the peasantry has been widely identified by authors on the peasantry. See footnote 1 above. Also : Saul, J., 'Peasants and Revolution', p. 46; and Murray, C., 'Migrant Labour and Changing Family Structure in the Rural Periphery of Southern Africa', Journal of South African Studies, Vol. 6, No. 2 (April 1979), pp. 139 - 156.

42. Cooper, F., 'Peasants, Capitalists, and Historians' p. 285. See Friedman, H., 'Household production and the National Economy : Concepts for the Analysis of Agrarian Formations', Journal of Peasant Studies, 7 (1980), pp. 158 - 84.

43. ibid., pp. 297-8 On the issue of migrancy and the reorganisation of rural relations of production see for example : Beinart, W., The Political Economy; Beinart, W., 'Joyini Inkomo : Cattle Advances and the Origins of Migrancy from Pondoland', Journal of South African Studies, Vol. 5, No. 2 (April 1978), pp. 199 - 219; Beinart, W., and Delius, P., 'The Family and Early Migrancy in Southern Africa', African History Seminar, University of London, School of Oriental and African Studies (1980); Delius, P., The Land Belongs to Us. The Pedi Polity, the Boers and the British in the Nineteenth Century Transvaal, Johannesburg : Ravan Press (1983); Cliffe, L., 'Rural Class Formation in East Africa', Journal of Peasant Studies, 4 (1977), pp. 195 - 224; Cliffe, L., 'Labour Migration and Peasant Differentiation : Zambian Experiences', Journal of Peasant Studies, 5, (1978), pp. 326-46; Friedman, H., 'Household Production'; Harries, P., 'Migrants and Marriage : The Role of Chiefs and Elders in Labour Movements from Pre-Colonial Southern Mozambique to South Africa', Centre for African Studies, University of Cape Town (May 1979); Harries, P., 'Kinship, Ideology and the Origins of Migrant Labour', Centre of International and Area Studies Conference : Class Formation, Culture and Consciousness : The Making of Modern South Africa, University of London (January 1980); Lacey, M., Working For Boroko - The Origins of a Coercive Labour System, Johannesburg : Ravan Press (1981); Murray, C., 'Migrant Labour', Palmer, R., and Parsons, N., (eds.) The Roots of Rural Poverty; Van Onselen, C., Chibaro : African Mine Labour in Southern Rhodesia 1900 - 1933, Johannesburg : Ravan Press (1980); Watson, W., Tribal Cohesion in a Money Economy, Manchester : Manchester University Press (1958); Wilson, F.,

Migrant Labour in South Africa, Johannesburg : Spro-cas and the South African Council of Churches (1972); and Van Velsen, J., 'Labour Migration as a Positive Factor in the Continuity of Tonga Tribal Society', Economic Development and Cultural Change, 8, No. 2 (1959).

44. This criticism is also levelled by Cooper, F., 'Peasants, Capitalists, and Historians', p. 292.

45. In particular see : Wolpe, H., 'Capitalism and Cheap Labour-power in South Africa : from Segregation to Apartheid', Economy and Society, 1 (1972), pp. 425 - 456; Johnstone, F., Class, Race and Gold, London (1976); and Meillassoux, C., Maidens, Meal and Money : Capitalism and the Domestic Community, Cambridge : Cambridge University Press (1981).

46. Meillassoux, C., Maidens.

47. ibid., pp. 92-112.

48. ibid.

49. ibid., p. 132-3. Some of the criticisms of the 'articulation of modes of production' formulation are dealt with in the following pages.

50. Marx, K., quoted in: O'Laughlin, B., 'Production and Reproduction: Meillassoux's Femmes, Greniers et Capitaux', Critique of Anthropology, Vol. 2, No. 8 (Spring 1977), p. 6.

51. ibid.

52. ibid., pp. 6-7.

53. ibid., pp. 9-10.

54. ibid., p. 20.

55. Banaji, J., 'Modes of Production in a Materialist Conception of History', Capital and Class, Vol. 3 (Autumn 1977)

56. Part of the problem here is the complex and multi-faceted meaning of 'reproduction'. Meillassoux has treated it simply as biological reproduction of the species, whilst O'Laughlin has defined it as the reproduction of the means of production, or of the differentiated forms of labour power specific to particular modes of production. Whilst neither of these approaches can be excluded from an understanding of 'reproduction', neither are broad enough to facilitate an understanding of

reproduction of the social formation in its entirety. The former approach ignores the reproduction of economic class relations, whilst the latter focuses on these exclusively. However, a conceptualization of reproduction of the social formation as a whole, whilst incorporating the reproduction of class relations, must also include the reproduction of political and ideological relations which are not reducible to economically determined class phenomena.

57. Bozzoli, B., 'Marxism, Feminism and South African Studies', Journal of South African Studies, Vol. 9, No. 2 (1983), pp. 139 - 171.

Bozzoli, in noting the patriarchal content of the political and ideological relations of control in pre-capitalist African communities, provides crucial insight into the power and independence of pre-capitalist 'modes of production' by suggesting that this rests on the control of women's labour and the restructuring of the male/female and familial division of labour ibid., pp. 8; 9; 13. This, she suggests, goes part of the way to explaining both the development of segregation and the lengthy period of male-based partial proletarianization. What is even more crucial to Bozzoli's analysis, however, is her recognition of the contradictions inherent in this process. She suggests that this involved a process of struggle on the part of women - as might be expected in terms of the increasing productive burden and pressure brought to bear on them. ibid., p. 9. Finally, she asserts that domestic struggles of this kind serve fundamentally to structure the form of society within the confines of the domination of capitalism ibid., pp. 8-9.

58. ibid., p. 143 Bozzoli's critique in this instance refers primarily to the Work of Wolpe, H., 'Capitalism and Cheap Labour-power'.

59. Brenner brilliantly argues the case for centering the analysis on productive processes and class struggles. Brenner, R., 'The Origins of Capitalist Development : A Critique of Neo-Smithian Marxism', New Left Review, 104 (1977), pp. 25 - 92.

60. Rey, P-P., Les Alliances de Classes, Paris (1973). This work has not been translated and I am drawing on the interpretations of Brewer, A. Marxist Theories of Imperialism: a Critical Survey, London : Routlege and Kegan Paul (1980), pp. 182-207.

61. Brewer, A., ibid., p. 184.

62. Some authors suggest that the 'dualism' criticized here is inherent in the very terminology of those theorists who utilize the 'articulation of modes' paradigm. So Clarke, for example, suggests that it is more appropriate to talk of 'pre-capitalist forms of production' within the dominant capitalist mode of production. See Clarke, J., 'Some Problems in the Conceptualization of Non-capitalist Relations of Production'. In a similar vein, Bozzoli states that 'modes of production do not articulate ... but they conflict." Bozzoli, B, 'Marxism, Feminism', p. 7.

63. Foster-Carter, A., 'The Modes of Production Controversy', New Left Review, Vol. 107 (January/February 1978), p.51; also see Wolpe, H., (ed.) The Articulation of Modes of Production, London : Routledge and Keegan (1980).

64. Clarke, J., 'Some Problems', p. 62, makes a similar point.

65. Murray, C., 'Migrant Labour' p. 144 (Footnote 14).

66. Roseberry, W., 'Peasants as Proletarians', Critique of Anthropology, No. 11 (Spring 1978), p. 3. Also see : Banaji, J., 'Modes of Production in a Materialist Conception of History', p. 30. Banaji demonstrates this point by example : "The slaves and hired labourers who intervened in this type of economy (feudal mode of production), were as much part of the specifically feudal relations of production as the serf population itself. Their intervention did not signify the persistence or emergence of other relations of production ('slavery', capitalism), and did not, therefore, imply an 'articulation' of serveral distinct 'modes of production." (original emphasis).

67. O'Meara, D., 'Class Capital and Ideology in the Development of Afrikaner Nationalism, 1934-48', unpublished Ph.D. thesis, University of Sussex (1979), p. 333.

68. Bradby, B., 'The Destruction of the Natural Economy', Economy and Society, Vol. 4, No. 2 (May 1975).

69. Meillassoux, C., 'Kinship Relations and Relations of Production', in: Seddon, D., (ed.), Relations of Production : Marxist Approaches in Economic Anthropology, London: Frank Cass (1974).

70. Wolf, E.R., Peasant Wars, pp. 276; 278.

71. ibid., p. 283.

72. Beinart, W., 'Amafelandawonye : Rural Popular Protest and Women's Movements in the Herschel District, South Africa, in the 1920s', Paper presented to the History Workshop, Johannesburg: University of the Witwatersrand (February 1984), pp. 3; 44.

In this light it is not at all surprising to find as varied a body of literature on peasant politics as was earlier discussed in the context of attempts to define the peasantry. Both general and specific as localized studies have variously described the politics of peasants as defensive, backward-looking and parochial or as having enormous revolutionary potential; as militant or reactionary; as spontaneous or well-organized; as localized and introverted or as having 'mass movement' potential. See for example : Beinart, W., and Bundy, C., 'State Intervention and Rural Resistance in the Transkei, 1900 - 1965', in Klein M., (ed.) Peasants in Africa, Beverley Hills (1980), pp. 270 - 315; Bradford, H., ''A Taste of Freedom' : Capitalist Development and Responses to the ICU in the Transvaal Countryside' in Bozzoli, B., Town and Countryside, pp. 128 - 50; Davidson, B., 'African Peasants and Revolution', Journal of Peasant Studies, 1, 3 (1974); Edgar, R., 'The Strange Career of Wellington Buthelezi, or Bantu Prophets in South Africa', (unpublished), Los Angeles : U.C.L.A. (1975); Fanon, F., The Wretched of the Earth, Penguin (1967); Hirson, B., 'Rural Revolt in South Africa, 1937-51', Institute of Commonwealth Studies, Collected Seminar Papers on the Societies of Southern Africa, 8, London : University of London (1977); Hobsbawm, E.J., 'Peasants and Politics', Journal of Peasant Studies, 1, 1 (1973), pp. 3 - 22; Mbeki, G., The Peasants Revolt, Harmondsworth : Penguin (1964); Rich, R., 'Black Peasants and Ethiopianism in South Africa, 1896 - 1915', Development Studies Group, Conference on the History of Opposition in South Africa, Johannesburg : University of the Witwatersrand, 1978; Saul, J., 'African Peasants and Revolution'; Saul, J., and Arrighi, A., Essays on the Political Economy of Africa, London : Monthly Review Press (1973); Shanin, T., (ed.), Peasants; Shivji, I., 'Peasants and Class Alliances'; and Wolf, E.R., Peasant Wars.

73. Report of the Native Economic Commission (NEC), 1930 - 32, U.G., 22 (1932), p. 3, paras. 10 - 16.

74. Tswana proverb quoted in Schapera, I., 'The Nature and Sources of Tswana Law', in Cohen, D.L., and Parsons, J.P., (eds.) Politics and Society in Botswana, UBLS Readings, Vol. II, Department of Government and Administration, University of Botswana, Lesotho and Swaziland (1974), p. 153.

75. Many authors have in fact based their assessment of relative political power in these societies, on an examination of the hierarchy of legal institutions and legal practices. This has been the result of a focus, both on localized court proceedings and the sources of legal appeal from any particular courts. It is in large part from his position as the final legal arbitrator and judge, that the chief is seen to draw much of his political authority. I refer to some of the anthropological works which have treated traditional law as central to to political authority in the communities they examine: Bohannan, P., Justice and Judgement among the Tiv, London: Oxford University Press for the International African Institute (2nd edition 1968); Fallers, L., Law Without Precedent, Chicago: University of Chicago Press (1969); Fortes, M., (ed.) Marriage in Tribal Societies, Cambridge University Press (1962); Gluckman, M., The Judicial Process Among the Barotse of Northern Rhodesia, Manchester: Manchester University Press (2nd edition, 1967); Hammond-Tooke, W.D., Bhaca Society, Cape Town: Oxford University Press (1962); Gluckman, M., The Ideas in Barotse Jurisprudence, London: Yale University Press, (1965); Pospisil, L., Anthropology of Law : A Comparative Theory, New York: Harper and Row (1972); Radcliffe-Brown, A.R., and Forde, D., (eds.) African Systems of Kinship and Marriage, London: Oxford University Press for the International African Insitute (1950); Ramolefe, A.M.R., 'Sesotho Marriage, Guardianship, and the Customary Legal Heir', in Gluckman, M., (ed.) Ideas and Procedures in African Customary Law, London: Oxford University Press for the International African Institute (1969), pp. 196-209. A number of works by Schapera, I., specifically on the Tswana, will be discussed in more detail below.

76. Comaroff, J.L., and Roberts, S., Rules and Processes : The Cultural Logic of Dispute in an African context, Chicago: University of Chicago Press (1981), pp. 3-4.

77. ibid., p. 5.

78. I am referring to the following works: Schapera, I., A Handbook of Tswana Law and Custom, London: Oxford University Press for the International African Institute (1938); Schapera, I., 'The Old Bantu Culture' in Schapera, I., (ed), Western Civilization and the Natives of South Africa, London: Routledge and Kegan Paul Ltd. (Reissued 1967).; Schapera, I., 'Contract in Tswana Law', in 'Gluckman, M., (ed.) Ideas and Procedures, pp. 318-332; Schapera, I., Tribal Legislation Amongst the Tswana of the Bechuanaland Protectorate, London School of Economics and Science, Monographs on Social Anthropology, No. 9., London:Percy Lund, Humphries and Co. Ltd. (1943); Schapera, I., The Tswana, International African Institute Ethnographic Survey of Africa, Southern Africa, No. 3 (1953); Schapera, I., Government and Politics in Tribal Societies, London : Watts; (1956); Schapera, I., 'The Political Organisation of the Ngwato of the Bechuanaland Protectorate', in Cohen, D.L., and Parsons, J.P., (eds.) Politics and Society, op.cit., pp. 137-154; and Schapera, I., 'The Nature and Sources of Tswana Law', in Cohen, D.L., and Parsons, J.P., (eds.) Politics and Society, pp. 137-154. Although I will not be discussing all of these works in detail, they all, to a greater or lesser degree, display the characteristics already discussed and the specific approaches which are outlined below.

79. ibid.

80. Schapera, I., 'The Nature and Sources of Tswana Law' in Cohen, D.L. and Parsons, J.P., (eds.) Politics and Society, p. 137.

81. ibid., p. 139.

82. Schapera, I., 'Tribal Legislation Amongst the Tswana', pp. 3-26.

83. ibid., p. 5.

84. Op.cit., see footnote (63). Of particular interest here, is the debate between Gluckman and Schapera on the appropriateness of 'contract' as an analytical tool in the analysis of African pre-capitalist legal systems. Schapera, I., 'Contract in Tswana Law', in Gluckman, M., (ed.) Ideas and Procedures, pp. 318-322, and Gluckman, M., 'Property Rights and Status in African Traditional Law', ibid. Ideas and Procedures, pp. 252-265. Schapera argues that in Tswana society there exists a formal contracting procedure with associated obligations enforceable

in the 'tribal' courts. On the basis of the diversity of ways in wich a single rule may be applied, Schapera argues the existence of a formal idea of contract amongst the Tswana. This, Gluckman claims, differs from the Barotse amongst whom 'each transaction is regarded as a specific complex of rights and obligations, and there is no general model of contract.' Gluckman challenges Schapera's westernized notion of a model of contract, suggesting that whilst there may be common ideas present in different types of transaction, these are not worked into a consistent set of principles. For a summary of this debate see Allott, A.N., Epstein, A.L., and Gluckman, M., introduction to Gluckman, M. (ed.) Ideas and Procedures, pp. 71-8.

85. Comaroff, J.L., and Roberts, S., Rules and Processes, pp. 9-10.

86. ibid., p. 10.

87. ibid., p. 13-14.

88. ibid., p. 17.

89. ibid., pp. 18-19.

90. Barkun, M., Law without Sanctions : Order in Primitive Societies and the World Community, London: Yale University Press, (1968), p. 92.

91. Van Velsen, J., 'Procedural Informality, Reconciliation and False Comparisons', in Gluckman, M., (ed) Ideas and Procedures, pp. 137 - 152; Bohannan, P., Justice and Judgement.

92. Van Velsen, J., ibid., pp. 147-8.

93. Comaroff, J.L., and Roberts, S., Rules and Processes, p. 20.

94. Pashukanis, C.B., Law and Marxism: A General Theory, London: Links (1978), p. 13.

95. ibid., p. 13-14.

96. Jessop, B., The Capitalist State, London: Martin Robertson (1983).

97. Binns, D., Beyond the Sociology of Conflicts, MacMillan (1977).

98. Pashukanis, C.B., Law and Marxism, pp. 78-80. Pashukanis does, however, acknowledge the ideological form of law. This is not relegated to a purely psychological plane, but rather he characterizes

the legal form as representing the mystified form of a specific social relation. He furthermore acknowledges that in certain cases this relation transmits its own form to some other social relations or even to the totality of social relations.

99. Althusser, L., Lenin and Philosophy and Other Essays, London: New Left Books (1977), p. 160.

Althusser rejects these notions on the basis that no social reality can be present to experience or conciousness. He thus characterises ideology not as conciousness, but as a representation of the 'imaginary'. This process of interpellation is primarily achieved through the articulation of ideological social relations within a system of ideological state apparatuses. These apparatuses are thus seen to serve the function of reproducing relations of production. This constitutes an essentially functionalist notion of both the role of ideology and of the state. Althusser's notion of 'reproduction' can only be seen as a functional imperative, along with the apparatuses assigned to perform this function. In this way he virtually ignores the fact that reproduction of social relations operates also at a level of relations of production, and reduces it to a psychological phenomenon. In so doing Althusser relegates ideology to the level of a mere 'superstructural' image of the economic infrastructure. Also see: Althusser, L., For Marx, London: Lane (1969); and Reading Capital, London : New Left Books (1977).

100. Cohen, G.A., Karl Marx Theory of History: A Defence, Oxford: Clarendon Press, (1978). p. 230.

101. ibid., p. 232.

102. O'Meara, D., 'Class, Capital and Ideology, p. 334.

103. Ibid., p. 335.

104. Poulantzas, N., Classes in Contemporary Capitalism, Verso (1978), pp. 24-5.

105. Poulantzas, N., Fascism and Dictatorship, London: Verso (1979).

106. Laclau, E., Politics and Ideology in Marxist Theory, London: New Left Books (1977), pp. 105-107.

107. Snyder, F.G. 'Labour Power and Legal Transformation in Senegal', Review of African Political Economy, No. 21 (May-Sept. 1981), pp. 26-43. Snyder

examines the concept of 'Gamoen' in Banjal society, (a form of childweath), to show the form and a specific type of capitalist penetration in agriculture.

108. ibid., p. 40 — Also see here : Snyder F.G., 'Colonialism and Legal Form : The Creation of 'Customary Law' in Senegal', in Sumner, G., (ed) Crime, Justice and Underdevelopment, London: Heinemann (1981).

109. ibid., pp. 40-1.

110. ibid., p. 41.

111. ibid., pp. 42-3.

112. Suttner, R., 'African Customary Law - Its Social and Ideological Function in South Africa', African Studies Insitute Seminar Paper, University of the Witwatersrand (October 1983); and

Suttner, R., 'The Study of 'Bantu Law' in South Africa : A Review Article', Acta Juridica, Juta and Co. for University of Cape Town (1968), pp. 147-156. See also Richardson, S.S., 'Whither Lay Justice in Africa?', in Gluckman, M., (ed.) Ideas and Procedures, pp. 123-136.

113. Suttner, R., 'African Customary Law', p. 16.

114. ibid., pp. 2-4; 15-17. Suttner, quoting Althusser, describes the South African legal system as 'interpellating' individuals as tribal subjects, thus entrenching an ethnic ideology reflected structurally in the segregated courts. The inferior status of African courts reflects in turn the 'colonial' character of this legal oppression.

Allot, A.N., Epstein, A.L., and Gluckman, M., in the introduction to Gluckman, M., (ed.) Ideas and Procedures, pp. 1-96, note the importance of the recognition of a unified customary law in post-colonial African countries, as a central stimulus to development of a united national consciousness. Until this is achieved, they suggest that African customary law can be described as "foreign law to be proved in its own land" (p. 14). In these terms they describe the process of codification of African law as a political rather than a legal problem. (p. 28).

115. Suttner, R., 'African Customary Law', p. 5.

116. In the various legislative measures which were passed recognizing African customary law, both prior to and after Union, this 'repugnancy clause' was phrased differently. The details of these distinctions will be exmained at a later stage.

117. Schapera, I., 'The Nature and Sources of Tswana Law', in Cohen, D.L. and Parson, J.P. (eds.) Politics and Society, pp. 143-4.

118. Suttner, R., 'African Customary Law', pp. 13-14. Richardson, S.S., 'Whither Lay Justice', p. 125. Suttner does acknowledge the progressive potential of these measures to outlaw coercive and oppressive relationships (such as forced marriage), characteristic of precapitalist African societies.

119. It should be acknowledged that Suttner does recognise the processes of oppression and exploitation in pre-capitalist African society, especially in relation to women. Yet he does not develop an understanding of developing class stratification within rural communities under capitalism, nor does he explicitly acknowledge the political and ideological forms of struggle that this took on at certain stages.

120. It is not intended to go into this debate here. Some of the central readings referred to are listed: Clarke, S., 'Capital, Fractions of Capital and State : Neo-Marxist Analysis of the South African State', Capital and Class, No. 5 (1978), pp. 32-77; Bozzoli, B., 'A Comment on Capital and the State in South Africa', Review of African Political Economy, No. 11 (1978), pp. 40-50; Innes, D., and Plaut, M., 'Class Struggle and the State', Review of African Political Economy, No. 11 (1978), pp. 51-61; Holloway, J., and Picciotto, S., State and Capital : A Marxist Debate, London : Arnold (1978); Clarke, S., 'Marxism, Sociology and Poulantzas' Theory of the State', Capital and Class, Vol. 2 (1977), pp. 1-27; Jessop, B., The Capitalist State, op cit., Poulantzas, N. Political Power and Social Classes, Verso (1975); Poulantzas, N., Classes in The neo-Poulantzian's reffered to below include: Davies, R., Kaplan, D., Morris, M., and O'Meara, D., 'Class Struggle and the Periodization of the State in South Africa', Review of African Political Economy, No. 7 (1976), pp. 4-30; Kapan, D., 'An Analysis of the South African State in the Fusion Period, 1932-1939', I.C.S. Paper (May 1975); Kaplan, D., 'The State and Economic Development in South Africa', African Studies Institute Seminar, University of the Witwatersrand (March 1975); and Kaplan, D., 'Relations of Production, Class Struggle and the State in the Interwar Period', Mimeo (July 1979).

121. Wolpe, H., 'Towards an Analysis of the South African State', Journal of the Sociology of Law, No. 8 (1980), pp. 399-421.

122. ibid., pp. 406-411.

123. ibid., p. 412.

124. Poulantzas describes the state along with- and through its apparatuses, as the 'materialization and condensation of class relations' (Poulantzas, N., Political Power, p. 26). These 'class relations' must be understood in terms of Poulantzas' distinction between 'class place' - structually defined in relation to the means of production - and 'class position' in any specific conjuncture - subject to the autonomous influences of politics and ideology. (Classes in, p. 16.) Thus, whilst Poulantzas acknowledges the primacy of relations of production in determining the operation of the entire social structure ...

"The process of production and exploitation is at the same time a process of reproduction of the relations of political and ideological domination and subordination" (ibid., p. 21.) It is in these terms that Poulantzas recognises ideology as being expressed in 'material practices' even at the level of the state and within state apparatuses.

125. Wolpe, H., 'Towards an Analysis', pp. 414-416.

126. Kaplan, D., Quoted in ibid., p. 417.

127. The 1920s and 1930s is a period considerably earlier than that envisaged by Wolpe, but as Wolpe is attempting to outline a general theory of the state, this should remain within the purview of his paper. The precise historical relationship between Chief, central state and Native Affairs Department, is one of the focal points of the following chapters.

128. Comaroff, J.L., 'Rules and Roles: Political Processes in a Tswana Chiefdom', in Bonner, P., (ed.) Working Papers in South African Studies, African Studies Institute, University of the Witwatersrand (1977), p. 281.

129. Burman, S.B., 'Symbolic Dimensions of the Enforcement of the Law', p. 204. This article is used in my earlier work, Simpson, G.N., 'The Political and Legal Contradictions in the Preservation and Dissolution of The Precapitalist Mode of

Production : The Fokeng Disturbances, 1921 - 26', B.A. Hons.) Dissertation, Johannesburg : University of the Witwatersrand, (1981). I once again owe thanks to David Dyzenhaus for drawing my attention to this article. I have not been able to obtain the full reference to the article as he was only in possession of a photostat copy.

130. ibid., p. 205.

131. ibid.

132. Comaroff, J.L., 'Rules and Roles', p. 280.

133. ibid., p. 281.

134. Schapera, I., 'The Political Organization of the Ngwato of the Bechuanaland Protectorate', in Cohen D.L., and Parson, J.P., (eds.) Politics and Society, p. 18.

135. N.E.C. 1930-32 Report, U.G., 22 (1932), p. 33.

136. Comaroff, J.L., 'Rules and Roles', pp. 282-3.

137. ibid., p. 183; Comaroff J.L., and Roberts, S., Rules and Processes, p. 25.

138. Comaroff, J.L. 'Rules and Roles', pp. 284-290; Comaroff, J.L. and Roberts, S., Rules and Processes, pp. 25-30.

139. N.E.C. 1930-32 Report, U.G., (1932), p. 100.

140. ibid., p. 31.

141. ibid., p. 30.

142. Cooper, F., 'Peasants, Capitalists and Historians', p. 313.

143. ibid., p. 314.

CHAPTER TWO LAND AND LABOUR IN THE RUSTENBURG DISTRICT

The complex processes of class formation in the Chiefdoms of the Rustenburg district gave rise to distinctive and unique forms of political resistance and ideological challenge in the first half of the twentieth century. It has been asserted in the previous chapter that there is little point in attempting to pursue the political consciousness of peasants without first examining the specific relations of production operating within particular peasant communities. This is particularly evident in the Rustenburg district during the 1920s and 1930s, as it will be demonstrated in the chapters which follow that fundamentally different material interests gave vent to very similar forms of political struggle. For this reason it is necessary, to document and explain the particular material conditions prevailing in the district and to attempt to illuminate the impact of developing capitalist relations on rural African production, before embarking on an analysis of peasant politics in the area.

The material conditions experienced by peasant communities in the Rustenburg district during the 1920s and 1930s began to take shape in the developments and social processes of the preceding ninety years. This chapter examines this history and the factors which shaped the fluctuating fortunes of different Tswana communities up to the end of the 1930s. Firstly, it will describe the ecological features of the district which were an important determinant on the resilience of the socio-economic structures of the various chiefdoms. Thereafter it will turn to an examination of the nineteenth century history of the district, documenting the various

chiefdoms responses to colonisation - their relationships to the Boers and the missionaries - which were in turn partly premised on their relationship to the Ndebele during the difaqane.

The chapter will then go on to map out the varied fortunes of different chiefdoms, their access to land and their differing abilities to expand their production bases, the effects of population growth, and the processes and periodisation of economic stratification within different chiefdoms. It will examine the expanding involvement of migrants in the wage labour market and will briefly refer to the development in 'white' capitalist agricultural and the bearing which this had on squatters and tenants access to land on 'white' farms in the district. Finally, it will turn to an examination of the crisis within the rural economies of the district during the drought-ridden period of the 1930s and the intervention of the state at the end of the decade, in an attempt to rehabilitate these floundering peasant communities.

Density of population:
One mark indicates 20 persons

- Native-owned area
- baFokeng (baKwena)
- baKwena ba Mogopa
- baKwena ba Modimosana
- baTsung
- baPô
- baTlôkwa
- baPhiring
- baKurutshe
- baKgetla
- baRokologadi
- baTlhako
- baPhalane
- baTlhaloerwa
- amaNdebele
- Matebele

Mixed population on European and Native privately-owned farms

Mixed population on Trust farms

Uninhabited Trust farms.

I The Ecology of The Rustenburg District

The Rustenburg district was first defined by proclamation in the government gazette 50/1909. Thereafter its boundaries were altered by proclamation No. 197 of 1913 and again in G.G. 125 of 1926 when the Brits district was created. The magisterial district of Rustenburg was divided into two Native Affairs districts, Pilansberg in the North and Rustenburg in the South.(1) This study is primarily concerned with the African communities of the Rustenburg Native Affairs district, although references will be made to the magisterial district as a whole as well as to African chiefdoms of the Pilansberg Native Affairs district.

The Rustenburg Magisterial district as defined above was 9020 square miles in extent in 1936 (slightly smaller than prior to the alteration of the boundaries in 1928). Of this area, the Rustenburg Native Affairs district constituted 3 320 square miles, while the Pilansberg Native Affairs district made up the remaining 5 700 square miles.(2)

The area that was defined as the Native Affairs district of Rustenburg is situated mostly in the Bushveld area of the Transvaal, although its south-western and south-eastern corners are virtually highveld. Most of the eastern part of the district is hilly and includes part of the Magaliesberg range of mountains. In the western part of the district there is another broad chain of hills, the Zwartruggens, running from east to west and down south to the town of Koster. The southern part of the district is dissected by

kloofs which peter out further to the north. The town of Rustenburg lies at the foot of the Magaliesberg range from whence stretch northwards the plains which develop into bushveld. The altitude of Derby in the southern highveld section of the district is approximately 5 500 feet above sea-level, as compared with the average altitude of the bushveld regions which is between 3 000 and 3 500 feet above sea level.(3)

The climate of the district differs sharply according to the topography of the area. The 1936 commission of enquiry into farming conditions in the district described the summers as very hot and the winters as mild in the north, but very cold in the highveld regions to the south. The generally warm climate was described as conducive to harsh and pervasive agricultural and pastoral diseases.(4) The district was, however, widely regarded as having enormous agricultural potential.(5) The 1936 commission, concerned primarily with white farming interests, expressed surprise that only 86 477 morgen out of 1 475 029 morgen of arable land (black and white) was under cultivation - a mere 6% of the total. Of that 86 477 morgen, only 9 143 morgen, or 11%, was under irrigation.(6)

The area was characterized by two primary soil types. Red lateritic soil predominated, with intrusions of black turf soil in various parts. The latter, regarded as particularly rich soil, required little manuring and relatively infrequent watering in order to offer viable agricultural yields. By contrast the red soil type was less resilient and successful farming demanded a more regular water supply and was best achieved with the use of fertilizers.(7)

Because of the predominance of red turf in the district, successful agricultural production depended heavily on a regular water supply. Although the mountainous parts of the bushveld as well as the highveld were dissected by numerous small streams, most of these were dry except during the rainy season.(8) As a result agricultural production during the 1920s and 1930s depended almost entirely on regular and substantial rainfall. Breutz suggests that as a rule, precipitation tended to decrease to the northwest of the magisterial district as a whole.(9) However, the variations in rainfall across the district over a number of years appear not to have been substantial.

TABLE I(10)

Average rainfall over a number of years prior to 1935

Rain Stations		Rustenburg	Swartruggens	Pilansberg	Middelwit	Klipkuil
Altitude (feet):		3675	4300	4000	3600	3450
No. of years surveyed up to 1935 :		31	25	25	11	13
Monthly Averages	Oct	1,90	1,60	1,62	1,44	1,05
	Nov	3,65	3,55	3,57	3,28	2,51
	Dec	4,09	3,75	4,28	4,22	3,86
	Jan	4,91	4,51	5,02	4,30	4,22
	Feb	3,98	3,47	3,91	3,34	3,25
	March	3,82	3,23	3,93	3,02	3,34
	April	1,00	1,15	1,11	1,73	1,25
	May	0,63	0,64	0,69	0,52	0,60
	June	0,16	0,12	0,12	0,18	0,18
	July	0,31	0,30	0,26	0,23	0,20
	August	0,44	0,40	0,52	0,11	0,12
	Sept	0,63	0,61	0,45	0,69	0,49
Annual Total:		25,52	23,33	25,48	23,06	21,07
Average No. of days of rain per year		78	50	54	58	55

Nonetheless, the rainfall in the Rustenburg district was irregular. Although the 1936 commission into farming conditions in the district estimated the average annual rainfall to be between 22 and 27 inches a year over a number of years, the annual statistics show that the figures were at various periods consistently below this average, as demonstrated in Table II below.

TABLE II

Average rainfall (in inches) 1931 - 35[11]

Place	Average rainfall over a number of years+	1931	1932	1933	1934	1935
Wendover	25,5	24,9	15,6	23,1	26,7	22,2
Vogelfontein	21,5	17,5	14,0	14,7	20,4	9,2
Ganskuil	21,7	15,8	19,5	21,6	29,7	15,1
Syferfontein	25,2	20,3	17,7	25,7	36,9	22,4
Cumberland	16,3	22,7	11,2	10,6	16,5	6,8
Mebani	21,7	(*)	(*)	20,1	23,8	10,7
Pilansberg	25,8	21,8	15,0	20,0	30,3	15,7
Rustenburg	24,6	25,4	15,9	22,3	28,4	20,5
Derby	27,5	34,3	23,1	27,8	28,2	30,3
Buffelspoort	25,7	27,0	21,4	32,2	26,6	18,6

(*) Figures not available for the entire year.

(+) The number of years was not specified in the commission report.

The commission report concluded that when compared with the average rainfall over a number of years, three of the five years between 1931 and 1935 could be considered drought years.(12) In this chapter, it will be argued that throughout the 1920s and 1930s, on white owned farms as well as within the African reserves, agricultural output varied drastically according to rainfall.

The 1936 commission also described the district as well suited to stock farming. The grasses of the bushveld plains in the lower altitudes of the district were largely sweet and well suited to cattle grazing, whilst in the higher areas the grass types were better suited to small stock farming, and in particular to sheep farming. These conditions also varied in different areas and were subject to the limitations of water supply and storage facilities.(13)

II Colonization and Capitalism - Buying Time and Land

The ecological features that have been described above had a lasting effect in shaping the fortunes of peasant producers in the Rustenburg district during the twentieth century. However, the bearing which these features had on the circumstances of different communities in the district, was itself dependent on a number of variables such as the political cohesion of the different communities and their abilities to secure access to fertile lands. These prevailing political and economic conditions were influenced by the particular processes of colonisation in the district, but also

began to take shape in the period prior to white colonisation. Indeed, the effects of the difaqane appear to have shaped both the processes of colonisation and the responses of various chiefdoms to it. It is therefore necessary briefly to examine this pre-colonial period before turning to an examination of the processes of colonisation.

When Mzilikazi fled from Shaka in the course of the difaqane, the Ndebele raided the Rustenburg area of the western Transvaal and the majority of the chiefdoms residing there were scattered. Kinsman has pointed out that the superior military might of the Ndebele and their stronger centralized state, made conquest and raiding of the southern Tswana communities relatively easy.(14) However, the degree to which the Tswana chiefdoms in the Rustenburg area were scattered, varied, as did the duration of their dispersal and absence from the area. The Fokeng, for example, having fled to various areas in the Orange Free State, began regrouping at Phokeng under Chief Mokgatle Mokgatle just six or seven years after the first Ndebele raids in 1828.(15) Thereafter, according to Breutz, Mokgatle acknowledged his subordination to Mzilikazi until the latter was driven out by the Boers, to whom Mokgatle then instantly transferred his allegiance.(16) The Kwena ba Mogopa appear not to have fled 'en masse' during this period, and were reportedly impoverished by the difaqane and were 'starving and without cattle' when the Boers under Potgieter settled in the district in the late 1830s.(17) Breutz suggests that both the Fokeng and the Kwena ba Mogopa were paying tribute to Mzilikazi.

The Kwena ba Modimosana ba Matlhaku and Kwena ba Modimosana ba Maake were widely scattered in the course of the Ndebele raids of 1827 - 30. The former fled into the Orange Free State whilst the latter found sanctuary in Bechuanaland. These chiefdoms only began regrouping in the Rustenburg district during the 1850s and 1860s some time after Mzilikazi had been defeated by the Boers.(18) The Tlokwa ba ga Bogatsu also began returning to the district only in the mid 1860s, whilst the Phiring had begun to regroup about twenty years earlier.(19)

Those groupings which remained in the district, although often forcibly relocated and compelled to pay allegiance to Mzilikazi, were nonetheless able to maintain some degree of social cohesion. Kinsman suggests that the presence of the Ndebele amongst the southern Tswana, ushered in a kind of 'uneasy peace' which allowed the Tswana to consolidate chiefdoms dispersed by 'brigands' during the earlier phases of the difaqane.(20) This often meant that these chiefdoms were at least able to maintain some productive agricultural base. By contrast, those groupings who fled the district were forced to abandon their lands and usually lost most of their livestock in the process. These people could only survive the destruction of their agricultural base by adopting a more scattered settlement pattern (often a nomadic existence) and subsisting on hunting and gathering.(21) Kinsman observes that:

> "The Difaqane was not just a series of devastating raids which scattered established settlements on the highveld. Rather, it was a period of dramatic transformation, when

> communities were stripped of their agricultural base - the source of their subsistence and were forced to seek alternative means of survival."(22)

Kinsman does qualify this picture of complete devastation, and her comments appear to have some applicability to those chiefdoms of the Rustenburg district which remained under Mzilikazi's rule. She says:

> "Though the Southern Tswana remained intimidated by the growing Ndebele state, they manipulated the modicum of stability granted them to reconstruct their communities."(23)

Possibly the most significant consequence of Mzilikazi's dominance in the Rustenburg area, was the 'buffer' which it provided for the Tswana chiefdoms as Boer conquerors began to penetrate the district. The fact that the Boer conquest was primarily concerned with subduing Mzilikazi, who was exploiting the local inhabitants through tribute and terrorizing them through raiding, meant that that the brunt of the violent penetration of white colonizers was not borne specifically by the local Tswana chiefdoms themselves. In fact, the Kwena ba Mogopa, the Fokeng and the Ba Po all quickly transferred their allegiances and joined the Boers in driving the Ndebele from the district.(24) Relly suggests that this facilitated 'tenuous treaties' or 'alliances' between local Tswana chiefdoms and trekker society.(25) She claims that some Tswana communities were thus able to maintain a degree of autonomy and were often spared the immediate dispersal and enforced disintegration of their social structures, which might have resulted from such violent conquest.(26)

The first Voortrekker to settle in the Rustenburg district was Hendrick Potgieter. In 1839 the Boers founded the village of 'Magaliesburg' which in 1850 became Rustenburg.(27) In return for the support given against the Ndebele, Potgieter rewarded the Fokeng chief Mokgatle by giving him a farm, Kookfontein 337. Thereafter the Fokeng lived in relative peace with the Boers who upheld and recognised Mokgatle's chieftainship. In 1883 President Paul Kruger paid a visit to the tribe.(28)

However, these alliances between Boer and Tswana chiefdoms (if they existed) were very tenuous indeed, and Relly acknowledges that few chiefdoms in the Rustenburg area were able to resist Boer claims to land or demands for labour and tribute.(29) Those chiefdoms, such as the small Taung ba ga Selale, which offered some resistance to Boer colonisation, were beaten into submission and forced to flee the district.(30) Even the Ba Po, who had fought alongside the Boers against the Ndebele and who resided on some of the best watered land in the district, eventually faced coercion at the hands of the Boers when the former resisted claims on their land and labour.(31) Along with the Tswana chiefdoms which were settled in the district prior to Boer colonisation, those groupings who only returned to the district during the 1850s and 1860s (some time after Ndebele were defeated) were coerced into fighting alongside the Boers during both the Sekhukhune wars and the campaigns in the Soutpansberg.(32) On one occasion, in 1867, these events were described by the Lutheran missionary at Bethanie, the headquarters of the Kwena ba Mogopa chiefdom:

> "On the 28th of May, the situation was restless and warlike at Bethanie. The farmers (Boers) had put together a commando to go to war with the people of the Soutpansberg. A part of the commando crossed Bethanie. The veldkornett, Herkules Malan, ordered all able-bodied men, including those of the congregation, to go to war with them. There was a big to do and a running about as each one got his weapons and other things together and said farewell ... Then all the men except three were taken away."(33)

In October of the following year the missionary again complained that:

> "Even though we don't live in the middle of the war zone of the war that the Boers are fighting in the north-east, we are still affected by the war unrest, especially when the men of the station are forced to accompany the farmers against the enemy tribes. This naturally costs them a lot and robs them of a lot of time to do their work at home."(34)

However, the nature of Boer colonization was such that it did not directly threaten the social and political cohesion of the Tswana chiefdoms of the district and did not fundamentally challenge the ability of many of these communities (especially in areas not densely settled by Boers) to maintain their access to land or even to acquire additional farms.

> "When the Boers conquered the Tswanas they were not very concerned with the natives, they left them to their habits and customs. The chief ruled his tribe as before, in a despotic manner; he just had to be careful not to come into conflict with the law of the whites."(35)

Evidence suggests that the 'relatively peaceful' relationship between the Boers and many of the Tswana chiefdoms, was partly the result of the early establishment of Christian mission stations

amongst the Tswana of the district and the mediating role which many missionaries played between the two parties.(36) However, it was in the purchasing of land on behalf of the various chiefdoms that the missionaries played possibly their most significant role during this period.

As early as 1853 the Kwena chief Setshele asked President Pretorius, then at Potchefstroom, to send him a missionary. In response the government invited the Hermannsburg Lutheran Mission to establish itself in the area.(37) The first permanent mission station was established in 1864 at Bethanie, the headquarters of Chief Mamogale, and this was also by invitation.(38) By 1885 there were twelve similarly established, fully-fledged Hermannsburg Lutheran Mission stations in the district.(39) The co-operative relationship between chiefs and the Lutheran Mission during this period, facilitated the purchase of land by the mission on behalf of the various chiefdoms. As Ernst Penzhorn, the Lutheran missionary at Phokeng noted:

> "Vroeger deur die sendelings, deur my vader en deur ander mense is daar baie grond gekoop vir die naturelle; hulle het plase gekoop vir die volk en oorspronklik was die plase op naam van die sendelinge of van ander wit mense geregistreer gewees; dit was in die dae gewees toe die swart mense nog nie die gereg gehad het nie om grond op hul eie naam te besit ..."(40)

Particularly amongst the small chiefdoms, there was often a dependence on mission purchases for access to any land at all. In the period 1868-9 the Lutheran mission bought substantial tracts of land on behalf of chief Mosome of the Kwena ba Modimosana ba Matlhaku.(41) Similarly in 1882 the mission purchased the farm

Grootwagendrift 743 on behalf of the Kwena ba Modimosana by Mmatau[42] and in 1889 Rev. Fuhls bought Hartebeesfontein 514 on behalf of the Kwena ba Modimosana ba Maake.[43] In the latter two cases, these were the only lands of which these chiefdoms were able to secure ownership. The respective chiefs' reliance on the Lutheran mission was therefore considerable.

The missionary at Bethanie described the process whereby land was purchased by the mission on behalf of the Kwena ba Mogopa chiefdom, and pointed out some of the implications of such purchase.

> "... the Lord has blessed us in that the station has been able to purchase another grazing field, 40 minutes long and 40 minutes wide. Because the owner wanted cattle for his land, each inhabitant of Bethanie had to provide one cow. As a joint owner, I paid the few pounds sterling that were demanded. This is how we managed to buy the land by the 4th May and pay for over half of it. This has been another step towards the survival and physical maintenance of the community of Bethanie. I am very pleased about these successes and praise the Lord. If the congregation is able to buy more land in the future, I shall encourage it greatly ... because it is owning their own land which keeps the people together and attracts more families from the farmers' places. It also encourages constructive work towards independence. Previously, for the use of the land just purchased, the women had to work for the owner. But they have now been freed from this duty. They can now work for themselves."[44]

Some Tswana chiefdoms of the western Transvaal, situated on highly productive land were able not only to generate a substantial surplus, but also appear to have succeeded in maintaining a high degree of political and social cohesion during the late 19th century. This facilitated the communal collection of funds, used primarly for the purchase of more land.[45] Land purchase in turn

sustained chiefly authority to distribute resources and thus facilitated the maintenance of existing forms of political organisation and social cohesion. In fact, land buying in and around the Rustenburg district became the focal point of Tswana life during the last decades of the nineteenth century.(46)

Not all the chiefdoms in the district were able to expand their productive base in this manner. Firstly, not all of them were situated on equally productive land. Whilst the Fokeng, Kwena ba Mogopa and Ba Po were able to derive high yields from drought resistant black turf and were thus ensured of a regular surplus from agricultural production, other chiefdoms were situated on less favourable lands.(47) In particular the small Kwena ba Modimosana ba Mmatau chiefdom, which was situated on mission-purchased Grootwagendrift, was subject to particularly harsh conditions. The northern section of the farm was extremely stoney and unsuitable for cultivation, whilst the southern portion was covered by dense brush and was poor grazing land. As a result the people of the chiefdom were forced from a very early date, to rely on access to land on neighbouring white-owned farms, both for grazing and cultivation purposes.(48) Other chiefdoms such as the Kwena ba Modimosana ba Maake situated in the centre of the district, and the Kwena ba Modimosana ba Matlhaku, situated in the north western corner of the district, were primarily reliant on red soils for their cultivation.(49) This meant that they were much more dependent on regular rainfall and more vulnerable to fluctuating weather conditions.

Furthermore, the Kwena ba Modimosana ba Maake, Kwena ba Modimosana ba Mmatau and Phiring chiefdoms were all initially settled on isolated lands which were soon completely surrounded by white owned farms. This meant that even if they were able to generate means for land purchase, the practicality of expansion onto easily accessible lands was often limited.(50)

The distinctive processes of white colonisation in the Rustenburg district, and the simultaneous allocation and resettlement of African lands, obviously played a fundamental role in dictating the long term fate of the rural economies of the various Tswana chiefdoms. However, the variations in the geology, topography, demography and climatic conditions across the Rustenburg district which have been described earlier in this chapter, also had a considerable bearing on the fluctuating fortunes of self-sufficient peasant producers, especially in smaller chiefdoms with greater limitations on access to land. This was evident well before the 1920s. In January 1891, the Lutheran missionary at Bethanie, the capital of the Kwena ba Mogopa, reported on the year's harvests as follows:

> "In many places of this land, especially outside the Transvaal the natives have harvested very little or nothing at all. This can be seen by the many people that come from Bechuanaland to buy corn for gold and cattle, from the indigenous tribes. Others that cannot afford anything, try to earn some corn by obtaining work, particularly harvesting and threshing. Our own people are very happy that they have harvested such a lot, enough not only to feed themselves, but also to sell. One can honestly say that everything here is plentiful. First the people had a rich maize harvest and following that an even richer corn harvest ... The people's wealth in mielies and corn is seen in the local store. They trade so much of it for clothing and such like, that the shopowner has to take freight after freight of the stuff to the goldfields and white towns. In

> addition those that have their own span of oxen often go to the market to trade ... The people are learning to use the world and are nearly living like whites."(51)

Just two years later in October 1893, the same missionary reported that floods had destroyed large areas of cultivated land and had drowned whole herds of cattle. Shortly afterwards a plague of locusts in huge swarms had destroyed over half of the remaining corn crop.(52) He went on to say:

> "Without a doubt the kaffircorn will be very rare and expensive in South Africa this year; the Lord only knows when the locusts will go away again. We hear reports from all sides that South Africa is still full of them. Whether we will have a maize harvest this year, the Lord alone knows. The Lord is my shepherd, I shall not want."(53)

In 1896 huge cattle losses resulted from the Rinderpest pandemic in the area(54) and the 1897 report of the Bethanie missionary documented continual plagues, locusts, Rinderpest, fever and drought.(55) In 1898 he reported that:

> "Many fields are lying barren and uncultivated, because there is no rain and the rivers and the streams are drying up. Springs that are usually abundant in water are drying up, and the surrounding inhabitants have to move backwards and forwards to where they can find drinking water for people and cattle. There is no talk of sowing and harvesting ... The Rinderpest has spread throughout the land like a windstorm and has knocked cattle over like trees and no strength or wisdom of people could stop it ... It will be a long time until Africa rebuilds its cattle stocks."(56)

The post Boer War period in Bethanie could generally be described as one of increasing improverishment and by 1908 the Lutheran

missionary in the area claimed that ... "such times as now we have never known in the past"[57] He went on to say:

> "It is as a result of this economic misery that not only men, but now also girls, are starting to run to the towns to earn their money there."[58]

It is evident that natural disasters were responsible in just six or seven years for transforming a highly successful peasant community into an impoverished one. The Rinderpest pandemic of the 1890s was exceptionally disasterous, and Relly notes that it served to shift the emphasis in Tswana communities of the Western Transvaal from cattle farming to the production and sale of agricultural crops.[59] The generally favourable geographical and topographical conditions eased the situation for agriculturalists in many parts of the district, and even facilitated rapid recovery once climatic conditions were normalised. Although an ecological disaster of the proportions of the Rinderpest pandemic during the 1890s did not recur[60], the 1900s and particularly the late 1920s and the 1930s were characterized by persistant drought and locust invasions. Under these circumstances, the resilience of the various chiefdom's productive capacities and the ability to recover from such natural disasters, depended on a number of variables such as the quality and extent of the land available, the population strength and density and the availability of various forms of land tenure on 'white-owned' farms outside of the scheduled tribal reserves. Possibly the most important of these variables, was the capacity of the different chiefdoms to expand their productive base through the purchase of additional land.

Some chiefdoms in the district proved to be more capable than others of expanding their landed resources in this manner. One factor which was particularly enduring in its effect on the land buying potential of the different chiefdoms, was their respective population strengths. In the Rustenburg area in the period before the turn of the century, land purchase was generally undertaken through communal means, rather than by individuals.(61) For example, soon after the discovery of diamonds, the Fokeng chief Mokgatle Mokgatle, sent about five hundred young men to work on the Kimberly diamond mines, in order to earn £5 each so that the chief could buy farms in the name of the local Lutheran mission.(62) This process of communal purchase was dependent on the ability of a chiefdom to generate the necessary funds. Smaller chiefdoms with limited person power were less able to do so, and this severely constrained their ability to expand their productive base and extend their access to land. For many people in these chiefdoms the only alternative means of gaining access to land was through labour or rent tenancy on neighbouring farms owned by white landowners.

Amongst the larger chiefdoms, however, land purchasing continued and appears to have been further encouraged by the opportunities for capital accumulation presented during the Anglo-Boer War and through the settlements of claims and receipts issued during the War. In the years immediately following the war, the necessity to register all African owned land in the name of the Commissioner of Native Affairs, revealed that much of the land ostensibly bought by missionaries was in fact owned by Africans.(63) In 1905 the South African Native Affairs Commission suggested that African land

purchasing be restricted to specific areas 'defined by legislative enactment' and that tribal or communal ownership of land should be prohibited. However, in the same year the Supreme Court overturned the ruling which made it necessary for Africans to register their land holdings in the name of the Commissioner of Native Affairs. Thus, although there were restrictions on the areas where Africans could buy land, the ongoing process of land purchase, both inside and outside the reserve areas, was not completely prevented.(64) In the course of his chieftainship (1896 - 1938) August Mokgatle bought no fewer than nine farms - nominally on behalf of the Fokeng.(65)

It remains something of a mystery how chiefdoms which were so recently impoverished by the effects of the Rinderpest pandemic were able to generate the funds necessary for land purchase. I have been unable to find evidence to explain this phenomenon and can therefore only speculate about solutions. There are three factors which may throw some light on this rapid accumulation of funds. Firstly, although Relly does not document the actual amounts of remuneration received in settlement of claims and receipts during the Anglo-Boer War, she does suggest that this was sufficient to encourage land purchases. Secondly, there is evidence that funds were communally accumulated on various occasions through widespread entrance into the wage labour market (as in the case of the Fokeng during the 1860s). Finally, the Rinderpest pandemic does not appear to have devasted agricultural production as much as pastoral production. It is possible that with the shift in emphasis to agricultural production, greater surpluses were produced, (especially by those

groupings farming on the richer soils) which were communally appropriated for the purpose of land purchases. The fact that particular chiefdoms were able to secure access to land through purchases in the late nineteenth and early twentieth century, did not necessarily imply that the entire chiefdom benefitted. Chiefly control over the allocation and distribution of resources often enabled chiefs to dictate which members or sections of the chiefdoms received access to communally purchased land. The resultant process of differentiation or stratification within particular chiefdoms laid the foundation for the political and ideological struggles against chiefly control in the 1920s and 1930s. For this reason it is essential to examine these developing processes of material differentiation within the various chiefdoms of the district.

Relly claims that for most of the nineteenth century Tswana chiefdoms propagated an ideology of communal land-holding. She suggests that this supposedly meant that land purchased would be equally distributed, irrespective of the differing contributions of any particular party to the purchase price. Relly concludes that land was therefore of limited importance in determining the social stratification of Tswana society.(66) However, the urgent need for arable land,(67) reflected by the growing importance of the purchasing and hiring of land, tended to undermine this ideology. Access to land became an increasingly dominant feature of economic and social statification within these Tswana chiefdoms. Central to this process were the developing notions of private property in land.

These developments were clearly identifiable in those chiefdoms which were able to engage in the process of land purchase, especially after the turn of the century. A close examination both of the land deals themselves and the ensuing distribution of land, demonstrates the frequent breakdown of the structures of communal ownership. It is also evident that resilient and cohesive political structures in Tswana society proved to be functional to the development of unequal land distribution.

Relly notes that after the Anglo-Boer war, chiefs were frequently buying land in their own names.(68) August Mokgatle, for example, bought some land in 1906 along with a few members of his chiefdom. He later repaid to the people involved the original sum they had contributed and was left with the land to himself.(69) Even after the passage of the 1913 Land Act and the application by the Native Affairs Department of a blanket prohibition on individual purchase of land by Africans in the area(70), chiefs were clearly attempting to manipulate their control over distribution of land in order to effect unequal access to 'communally' purchased productive resources.(71)

By the 1930s increasing landlessness, even amongst the 'wealthier' chiefdoms with more extensive access to land, was being attributed to the corrupt administration of chiefs in the district. In evidence to the Native Economic Commission of 1930-2, Ernst Penzhorn identified this as the main contributing factor to unequal land distribution amongst the Fokeng.

> "Daar is mense wat al sedert 1888 betaal het vir plase. Hulle betaal nog; hulle is van die eerstes wat betaal het, maar hulle het nie land om te ploeg nie."(72)

Chief J.O.M. Mamogale of the Kwena ba Mogopa was quite explicit about his interests in 1905:

> "I was surprised and disappointed to hear from you that chiefs have no 'private money' ... I again mention that the tribe has nothing to do with the 'erf' as it was bought with 'private money' ... Sir, this disappointment will not be blotted out till I am given right to my own property. Every man in the world has private money."(73)

However, to suggest that it was only chiefs who were individually benefitting from the manipulation of communal purchase, would be misleading. In the larger chiefdoms with fairly dispersed settlement patterns (such as the Kwena ba Modimosana ba Matlhaku chiefdom, and especially the Kwena ba Mogopa chiefdom which had outlying branches in the Pretoria, Brits and Ventersdorp districts), arable land which was purchased by means of contributions from the entire tribe, was often utilized by just one section of the chiefdom and was inaccessible to others.(74)

In addition, whole groupings of people who had bought land communally began to attempt to shed the restraints and responsibilities of communal ownership. This became apparent in the Fokeng chiefdom with the discovery of minerals on some of the 'tribally owned' farms. Although the resultant revenues eventually accrued to the chiefdom as a whole, this was not before a protracted legal dispute in which some individuals claimed to have exclusive

rights to these revenues as a consequence of their private ownership of the land.(75)

Not only was the distribution of communally owned lands no longer 'truly communal', but occasionally communally bought lands were not 'truly communally purchased'. Evidence suggests that groupings of individuals, either with the sanction or with the direct participation of their chiefs, would pool their resources in order to purchase a tract of land which would then be divided up among the buyers according to the amount contributed by them. This land would effectively be controlled as private property and would merely be registered as 'tribally-owned' land.(76) Formally constituted communal purchase of land did not, therefore, necessarily guarantee members of a chiefdom secure access to a viable means of agricultural subsistence. In fact it appears that the Native Commissioner for the Pilansberg area, T.R. Emmett, was more concerned with the imperatives of segregation than with African access to land when he suggested (to the Native Economic Commission in 1930) that the purchase of land under 'tribal conditions' (with all the advantages of greater communal purchasing power) 'would obviate the landless native question'.(77)

The fact that land purchase had become the 'focal point of Tswana life' by the early twentieth century, certainly did not necessarily imply universal access to land. It has been demonstrated that certain chiefdoms, particularly the small chiefdoms, were unable to take advantage of the availability of purchaseable land and throughout the period under review were restricted to just one or two relatively small tracts of land.

Although Relly claims that the options to purchase land remained relatively open in the district after 1913[78] communal purchase was not as practical an option for the smaller chiefdoms which were less capable of generating communal wealth. Futhermore, by the 1920s the availability of purchaseable land within scheduled location areas was severely limited. Ernst Penzhorn was adamant that the 1913 Lands Act was perceived as restricting Africans' access to land.[79] Chiefs demonstrated their resentment of this and expressed their desire to buy farms outside of the African reserved areas. Their objections were usually couched in the political rhetoric of the time, and hence chiefs in the Rustenburg district expressed their frustrated aspirations through open opposition to any notions of segregation.[80]

However, despite the expressed desire to purchase more land, even the more 'affluent' chiefdoms of the district experienced severe financial problems as a consequence of the rapid process of land purchase both before and after the 1913 Land Act. By the mid 1920s virtually every single chiefdom in the district was heavily in debt and owed large sums of money on mortgaged lands.[81] In many of these chiefdoms this indebtedness was exacerbated by the financial maladministration of chiefs and the increasing refusal of members of various chiefdoms to contribute to tribal levies for land to which they did not themselves have access.[82]

Therefore, although the growing African population in the late nineteenth and early twentieth century had provided the larger

chiefdoms with the potential to generate funds for the purpose of land purcahse, by the 1920s the limitations on available purchaseable land combined with the unwillingness of large numbers of people to contribute to communal purchases meant that population pressure began to take its toll. By the 1930s growing African population pressure proved to be one of the central strains on the productive capacity of the available land.

In 1904, the combined African population of the Rustenburg and Pilansberg NAD districts was estimated at 23 652. By 1921 this number had risen to 60 276 and by 1936 census figures showed the African population to number 87 700.(83) Approximately two thirds of the population were situated in the Rustenburg NAD district, and of the total of 109 000 reported in the 1946 census, 68 000 were located in this area.(84) Of this number 27 650 were estimated to live on 'tribally-owned' farms, 1535 were permanently resident on trust farms, a mere 930 resided on 'privately-owned native farms', and 25 110 were reportedly resident on farms owned by 'Europeans, Asiatics and Coloureds'.(85) By 1936 all the chiefdoms of the district were experiencing the problem of overpulation on tribal land and the consequent effects of overstocking and severe soil erosion. These problems generally appeared to be most severe in the smaller chiefdoms with greater population density in relation to available land.

Table III below provides a breakdown of the population on the various 'tribally-owned' lands of the nine chiefdoms, and the extent of these lands and the livestock population of each chiefdom, as they stood in 1936.

TABLE III[86]

'Tribally-owned' Land, Population and Livestock in NAD District of Rustenburg 1936

CHIEFDOM	Scheduled Location Land (morgen/sq rds)	Other 'tribally' owned land (morgen/sq rds)	Total Land	Population	Large Stock	Small Stock	Cattle Units
Fokeng (August Mokgatle's location)	62 764/380	10 720/406	73 485/186	11 641	13 309	6 695	± 14 648
Kwena ba Mogopa (Mamogale's location)	22 097/259	2 065/441	24 163/100	3 742	2 493	1 768	± 2 847
Kwena ba Modimosana ba Matlhaku (Pella's location)	12 129/120	13 422/10	25 551/130	8 000	7 220	8 190	± 8 860
ba Po ba Mogale (Darius Mogale's location)	9 511/575	1 641/487	10 153/462	4 204	1 611	2 335	± 2 078
Tlokwa ba ga Bogatsu (Tlolwe's location)	4 150/182	8 296/351	12 447/431	4 165	5 354	5 508	6 467
Phiring (Mabalane's location)	5 252/21	none	5 252/21	1 500	1 583	1 665	1 916
Kwena ba Modimosana ba Mmatau (Selon's location)	3 103/223	none	3 103/223	720	976	794	1 134
Kwena ba Modimosana ba Maake (Ratsegae's location)	4 945/111	none	4 945/111	400	1 090	560	±1 200
Taung ba ga Selale (Sefanyaskraal)	± 1 000	none	± 1 000	60 families	--unavailable--		

It is evident from the preceding pages that these material conditions had their roots in the varied responses of different chiefdoms to the processes of white colonisation. To some extent the fluctuating fortunes of the different chiefdoms were determined by ecological factors beyond their control, such as Rinderpest, drought, floods and plagues of locusts. Beyond that, the differing capacities of various Tswana communities to recover from these ecological disasters was to some extent predetermined by the fertility of the particular lands on which they were settled. However, in their varied responses to colonialism, Tswana chiefdoms in the Rustenburg district were actively involved in determining the terms of their interaction with the developing capitalist economy, and in particular were able to stave off rural decline for shorter or longer periods of time.

Despite sub-ordination to the Ndebele, the extensive influence of Christian missionaries and colonisation by the Boers, most of the chiefdoms of the district were able to maintain a significant degree of social and political cohesion even after the turn of the century. In the larger chiefdoms this facilitated the generation of funds for communal land buying. However, even in these larger and more affluent chiefdoms the consolidation of the colonial state, the expansion of capitalist relations of production and the consequent limitations imposed on access to land, resulted in developing processes of social and economic stratification rooted in the control over landed resources. As a result, by the 1920s there was a growing landless population in the Rustenburg district. For those

with insufficient access to land within the 'locations' the alternatives were twofold: they either had to enter the wage labour market or secure one of various forms of tenure on neighbouring white owned farms.

III Land of 'Sunshine and Milk' - Migrants and Labour Tenants

For those peasants who had managed to acquire access to fertile lands, the 1920s proved to be a fairly prosperous period. Rains in the first five years of the decade were better than average although the period from 1925 - 1930 was characterised by drought.(87) Penzhorn claimed that amongst the Fokeng more land was brought under cultivation, farming schemes were growing, and the average plot of six morgen was producing 50 - 75 bags of grain annually.(88) Some peasant producers were growing as much as 500 bags a year and many more between 100 and 200 bags. By 1930, even wheat and tobacco were being cultivated.(89)

In evidence to the Native Economic Commission in 1930, the missionaries Penzhorn and Stegmann, as well as N.C. Emmett, indicated that agricultural production in the eastern and central northern chiefdoms of the N.A.D. district of Rustenburg was highly successful and that almost without exception farmers were able to produce a surplus over and above their immediate needs.

> "Daarvan kan hulle heelmaal goed leef en bestaan en wat hulle oor het verkoop hulle vir hul behoeftes in klere en huisraad en so voort."(90)

Ernestina Mekwe who lived at Phokeng during this period, described farming as 'really profitable ... farming was number one'[91] She claimed that her family reaped 100 bags of sorghum annually and no less than 80 bags in a bad year. She went on to complain that they used to sell their surplus 'cheaply to the boers in Rustenburg at 5 shillings a bag.'[92]

In these chiefdoms, (the Fokeng, Kwena ba Mogopa and Ba Po) the soil was mainly black turf, was extremely fertile, mostly arable and required little or no manuring. Even during periods of water shortage, this land remained productive for years if ploughed properly.[93] As a consequence many peasant small holders were able to produce the yields mentioned for most of the 1920s. In addition to this, although it was not a universal characteristic throughout the region, many of the African farms were adopting modernized methods of farming, such as deep ploughing with double furrow ploughs.[94] Penzhorn suggested that these methods were learned through temporary labour on white farms.[95]

The conditions prevailing in these three chiefdoms differed substantially from others in the district. The starkest contrast was with the Kwena ba Modimosana ba Mmatau. By the early 1920s this small chiefdom had the greatest population in relation to its land, was overpopulated, overstocked and incapable of supporting even half of its population. As a result, two thirds of the chiefdom was already either resident on neighbouring white-owned farms or involved in wage-labour on the Rand.[96] No statistics are available for the agricultural output on the farm Grootwagendrift on

which the chiefdom lived during this period, but Breutz claimed that there was no surplus at all produced during the 1940s.(97)

Agricultural production in the Fokeng chiefdom also contrasted with that in large chiefdoms in the Pilansberg district. N.C. Emmett noted that agricultural production in these northern parts was not as 'progressive' as it was in August Mokgatle's location, and he identified an urgent need for the development of intensive scientific farming methods.(98) However, the extent of advancement of agricultural methods amongst the Fokeng, and indeed in the district as a whole, should not be overstated. Penzhorn noted that in 1930 there were only three metal double furrow ploughs in the Fokeng chiefdom.(99) Even the most advanced African farmers (who took their products to agricultural shows organised in the district) were not engaging in such practices as seed selection. They seldom bought seed but instead relied on the seed they grew themselves which was extensively cross-pollinated due to the lands they cultivated being 'on top of one another'.(100) There was also little or no selective cattle breeding prior to the 1940s and most cattle were scrub herds.(101)

As a solution to these shortcomings, Emmett recommended to the N.E.C. that the establishment of more agricultural demonstrators in the district be encouraged.(102) Although it is difficult to explain, there appears to have been initial resistance to agricultural demonstrators and some suspicion of them. Even chiefs were initially reluctant to provide land for demonstration plots, and often refused to contribute towards the costs of establishing such plots.(103)

The Tlokwa ba ga Bogatsu and the Kwena ba Modimosana ba Matlhaku chiefdoms in the north-western corner of the Rustenburg NAD district also appear not to have developed more advanced farming methods during this period. Breutz has argued that these chiefdoms suffered this fate as a consequence of being ruled by chiefs and councillors which were either inactive or 'unprogressive'.(104) However, the people of these chiefdoms, which were settled on scattered pieces of land, were often unable to manure the red lateric soil which they cultivated due to the distance between their grazing lands and their crop fields. Similar circumstances prevailed in the smallest 'locations' (the Taung ba ga Selale at Sephanyaskraal, the Kwena ba Modimosana ba Maabe in Ratsegae's location and the Phiring in Mabalane's location) where almost all of the cattle owned by members of the chiefdoms were being grazed on neighbouring white farms or on trust farms in the Pilansberg district, as was the case for Kwena ba Modimosana ba Mmatau residents on Selonskraal.(105)

Members of the chiefdoms in the north-western corner of the district also experienced greater difficulty in marketing whatever surpluses they did produce. Emmett noted that close proximity to Rustenburg itself and accessible transport, enabled members of the Fokeng, Kwena ba Mogopa and Ba Po chiefdoms to sell their surpluses profitably. However, these conditions were not duplicated in the outlying areas, where peasants were generally limited to trade and barter on a local basis.(106)

Relly, in her examination of Tswana communities in the Western Transvaal in the first three decades of the twentieth century, argues that the generally favourable farming conditions outlined here and documented by the 1936 commission of enquiry, enabled black peasants who maintained access to land to meet their cash requirements and thereby resist the pressures of proletarianization, at least until the 1930s.(107) She argues that patterns of land ownership within Tswana chiefdoms were therefore fundamental in shaping patterns of labour migration and proletarianization during this period. There is much evidence to support Relly's contentions, but her failure to undertake a comparative examination of the contrasting conditions within different chiefdoms in the district, results in a somewhat unilinear picture of proletarianization for the district as a whole.

Part of the problem lies in Relly's loosely defined use of the term proletarianization. 'Proletarianzation' or even 'partial proletarianization', implies at least the partial demise of independent subsistence production and hence a lasting dependence on wage labour. However, under circumstances such as those prevailing in the Rustenburg district; where fluctuating conditions in the rural economy (and particularly a vulnerability to changing climatic conditions) may have resulted in equally fluctuating trends to enter the wage labour market; the capacity of the rural economy to recover from periodic decline suggests that temporary dependence on wage labour was by no means irreversible.(108) Therefore, to simply treat levels of migrancy as an index of 'proletarianization' (as Relly tends to do), is potentially misleading.

Relly, it should be emphasized, does recognise that the vulnerability of peasant producers to the pressures of proletarianziation varied within chiefdoms, according to their access to crucial material resources. Hence, she identifies the crucial distinction between dependence on cash earnings to supplement limited rural subsistence production on the one hand, and discretionary entrance into the labour-market so as to enhance rural production capacities on the other. However, she fails to take sufficient cognisance of the distinctions between different chiefdoms, such as their geographical location, their population strength and their respective degrees of social and political cohesion, all of which profoundly affected the resilience of self-sufficient peasant production. Relly consequently fails to perceive that whilst many members of some of the larger chiefdoms were able to resist a dependence on wage labour until at least the 1930s and were therefore able to enter the labour market in a more discretionary manner, for members of some of the smaller chiefdoms migrancy was already a 'necessity' by the early 1920s.

Despite these differences, there were, nevertheless, certain developing trends common to the African rural economies of the Rustenburg district during the 1920s. The rapid growth of the population in the district as a result of both natural increase and of migration to the western Transvaal,(109) combined with narrowing access to land, were resulting in a general problem of overstocking and overpopulation and the consequent development of soil erosion.(110) Growing landlessness was a principal concern

of all those who gave evidence to the Native Economic Commission of 1930-2 - missionaries, N.A.D. officials and chiefs alike. By 1930 Relly suggests there was a large and growing number of Africans who owned little more than two or three morgen of ground - insufficient to support them without an independent cash income.(111)

Poor rains between 1925 and 1930 critically affected the already inadequate water supply on reserve lands and African cattle had to travel huge distances to obtain drinking water. A further problem was the increasing exhaustion of even the most fertile of arable lands.(112) Despite the positive reports about agricultural successes and advances among the larger chiefdoms in the eastern half of the region during the 1920s, it is clear that by the 1930s the productive capacity of the soil in these regions had been severely undermined.(113) Even those peasant families who were able independently to produce surpluses during this period were becoming increasingly vulnerable to unfavourable climatic conditions and to the pressures to enter the wage labour market. Ultimately it was the ensuing years of virtually continual drought during the 1930s which broke the resilience of independent peasant production in the Rustenburg area.

However, throughout the decade prior to this ecological disaster, rates of migrancy appear to have been on the increase, even amongst the larger chiefdoms of the eastern part of the district.(114) In evidence to the Native Economic Commission in 1930, Ernst Penzhorn stated that male migrancy had become a necessity for the survival of most Fokeng rural family units. He claimed that by that time,

almost every unmarried young man spent at least a few years in wage labour on the Rand[115] But the partial decline of the rural economy during the late 1920s, although contributing substantially to the increase in migration from the district, does not in isolation explain this trend. It remains to examine to what extent material stratification and differentiation within the various chiefdoms were responsbile for forcing increasing numbers of landless people to enter the wage labour markets.

The processes of economic stratification on the basis of access to land within the chiefdoms of the Rustenburg district, did not amount to a simple division between those who had access to a means of surplus production and those who did not. Rather it resulted in a complex spectrum of material interests, which in turn gave rise to a variety of motivations for entry into the wage labour market. In the absence of a general quantitative statistical breakdown of the income distribution and productive capacities of family units within African reserves during the late 1920s, it is extremely difficult to substantiate any generalisations about the increasing dependence on wage labour such as that made by Penzhorn. There are, however, a number of identifiable trends which led to young men entering wage labour during the 1920s, which throw considerable light on the differing material conditions experienced by peasant producers in the region. If migration to the towns was universal amongst young unmarried men by 1930, then the reasons for entering wage labour varied considerably according to the stake which different men had in the agricultural base of the rural economy.

The immediate distinction which can be drawn and which has been noted above, is that between those who took up migrant labour to complement or enhance their capacity as agricultural producers, and those for whom limited agricultural production was merely a supplement to their migrant earnings. In other words, for some, wage labour represented an investable cash income, invariably invested in agricultural production, whereas for others migrant wages were crucial for their day to day subsistance. In addition, many peasant producers, although able to subsist off the land, were unable to meet their cash requirements through lack of access to markets or because of an insufficient surplus. Let us examine each of these in turn.

Unquestionably growing landlessness and rapidly developing land exhaustion had resulted in more people becoming dependent on wage earning in order to survive. This Penzhorn noted amongst the Fokeng, and it was definitely the case from a very early date amongst the Kwena ba Modimosana ba Mmatau.(116) Evidence suggests that these migrants were conscious of those factors which determined their lack of access to land. Increasingly, they reneged on their obligations to contribute to tribal levies, and to contribute thereby to the communal purchase of land (or to meet the debts already incurred in this respect)(117) Relly suggests that:

> "It seems likely that, in part, the recalcitrance of migrant labourers reflected the extent to which their stake in the rural economy had diminished."(118)

However, there is also considerable evidence to suggest that many other migrants were entering wage labour in order to meet their cash requirements - not only to enable them to pay their taxes, but also to meet the costs of their 'tribal obligations', such as tribute, levies and bridewealth costs.(119) Penzhorn claimed that the majority of those either temporarily or semi-permanently living in the urban areas, still saw themsleves as 'part of the tribe'.(120) In fact, Penzhorn said that amongst the Fokeng in the last years of the 1920s there were an increasing number of migrants who were returning to 'their tribal roots' and farming in the 'location'.(121) Penzhorn also pointed out that many migrated as target workers with the object of making money in order to buy ploughs or a span of oxen.(122) He suggested that even those who developed a trade, such as shoemakers and carpenters, eventually returned to farming and re-invested their earnings in agricultural production.(123) Naomi Setshedi who lived at Phokeng during this period, described how her brother had made a considerable amount of money working in Johannesburg and selling home brewed beer. He spent all the money he made buying cattle, until by 1938 he had a herd of over fifty cattle in the 'location'. Setshedi tried to convince her brother to sell the cattle and buy some freehold land in the urban area, but he refused to do so.

> "His thoughtlessness made me angry. Really God can give you all material things you desire but not give you the brains you require to work those things or decide what to do with them."(124)

Many of the chiefs of the district complained to the Native Economic Commission that migrants who had been away from the reserve for a

number of years, would suddenly arrive back with money to spend on farming activities and would demand their 'customary' rights to certain pieces of land. They would often leave again and their land would lie unused until they chose to return.(125) N.C. Emmett pointed out that most male migration was seasonal and that men as a rule returned to the rural areas to plough and to harvest.(126)

It appears that for most of these people, at least the needs of immediate reproduction (that is production of subsistence requirements) were met by agricultural production. However, reproduction from one generation to the next demanded a surplus product in a specific form - money. For many migrancy was thus determined by various increased needs for cash, (either to pay taxes, to meet 'tribal obligations' or to expand agricultural production) rather than by the declining productivity of the reserves or the loss of access to land. It should be mentioned here that both the missionaries Penzhorn and Stegmann pointed out the higher standard of living amongst Christians in the district. This they suggested involved the development of new needs for 'luxury' items such as furniture, sewing machines, bicycles, etc. As a result the cash 'requirements' of the average Christian family could often not be met even with the sale of an agricultural surplus. Stegmann estimated that the average Christian family required £40 - £50 per year to meet their needs.(127) This he suggested would demand that such a family produced at least 100 bags of grain a year.(128) In this vein Penzhorn stated :

> "I am not prepared to say that the conditions are getting poorer and poorer but I am prepared to say this: that the requirements of the natives have increased so that it has become necessary for them to go out to work."(129)

These circumstances appear to have given some latitude to migrants as to when and where they entered the wage labour market, which in turn enabled them to avoid the most exploitative forms of employment. As a result very few of the migrants from the district took up wage labour on neighbouring white farms(130) and very few were prepared to work in the mines.(131) As late as 1950 Breutz estimated that less than 10% of the migrants from the Rustenburg district worked down the mines.(132) Migrants from Phokeng clearly preferred to work in secondary industry, where possible, or in domestic labour as 'kitchen boys', 'store boys' and the like.(133)

There was another motive for labour migrancy which overlapped with those already discussed, and which reflected migrants' tendencies to renege on their 'tribally-defined responsibilities'. In the communities of the Rustenburg district, where the obligations associated with communal ownership of land were increasingly being challenged, migrancy also offered both a means of escaping these responsibilities, as well as an opportunity to gain individual control over an independent income. Penzhorn pointed out that many young men were migrating to avoid the autocratic rule, and in particular the labour demands, of chiefs.(134) Emmett also drew attention to the fact that these young men, when faced with having to contribute to tribal levies, would simply 'clear off to the towns'(135) The chiefs themselves were very outspoken about this

trend. Chief Pilane recognised that 'people leave' because of their 'tribal dues and tributes' - but he could not explain this:-

> "But these fees are just fees."(136)

Chief Mogatle explained that these young men migrated 'in order to be free' and to avoid tribal rule and authority.(137) In particular he claimed they left to avoid 'tribal justice'(138) Stegmann explained the 'desertion' of these young men in more general terms.

> "Op die lande en in die lokasies is daar baie werk wat hulle moet doen, in die dorpe en in die stede is hulle meer vry."(139)

Indeed, it appears that it was not just an avoidance of 'tribal' obligations, but of family obligations as well, which stimulated 'desertion' to the towns. In these peasant communities, where agricultural production was based on the allocation and division of household labour, it was primarily the family which imposed obligations and demands on the allocation of young men's labour. As a consequence the relative freedom of the towns and the access to independently controlled individual wealth, presented an appealing option to young migrants and even very young boys. Naboth Mokgatle relates how at just twelve years old, out of resentment of having to spend all day herding, he 'ran away' to Kroondal (a missionary settlement in the Rustenburg district) in order to earn some money of his own. He said that runaways of his age and older were 'well known' for their avoidance of family obligations and for defying their elders.(140)

Chief Shongoane bemoaned this tendency to migrate 'to be free' and identified the source of the problem as the 'desire for money' which 'came with the white man's cash economy'.(141) In most instances this trend was associated with a breakdown of parental control,(142) but the desire for independently controlled individual wealth was more specifically noted by some N.A.D. officials during this period and was identified as symptomatic of a 'growing individualism'.(143)

A final factor which potentially contributed both to growing pressure on reserve lands and increasing rates of migrancy, was the apparent pressure being brought to bear on African tenants on white-owned farms. For many peasant families the alternative to buying land was to rent it on nearby white farms. This usually took the form of labour tenancy. Penzhorn suggested that Africans realised they could make a better living off the land than they could as wage labourers. He therefore claimed that various forms of tenure on neighbouring privately owned farms provided a means of resisting wage-labour migration.(144) However, Penzhorn said that from the early 1920s the effective implementation of anti-squatter legislation meant that this hiring of property on nearby white farms was on the decline.(145) Relly summed up what she identified as the combined effect of the 1913 Land Act and the implementation of anti-squatter legislation:

> "Poor people were not only forced off white farms or into tenancies which more and more tended towards full time wage-labour, but they were also having a difficult time maintaining their access land within the locations."(146)

However, the impact of the implementation of anti-squatter measures is rather ambiguous and should not be overestimated. If there was any systematic pressure brought to bear on 'squatters' then it was primarily focussed on those occupying tracts of land owned by 'absentee landlords'. In this respect it was largely tenants who were farming on the half or who were grazing their cattle on these lands rather than labour tenants who suffered. This would explain Penzhorn's claim that by 1930 tenants were increasingly returning to the reserves.(147) Emmett, in evidence to the N.E.C., was particularly outspoken against this 'absentee landlordism', suggesting that it should be prohibited as this would be 'in the interests of segregation' and would force the Africans back into the reserves thereby 'freeing' a large amount of labour.(148) However, it is extremely difficult to assess the quantitative effect of this pressure as once again no statistical evidence is available. It is, however, clear that labour tenants were not simply driven off the white farms.

The main reason for this was the snails-pace development of capitalist agriculture during the 1920s and 1930s which was reflected by the complete inability of white farmers to secure sufficient supplies of labour.(149) As a result, white farmers were heavily dependent on labour tenants to meet their labour requirements.(150)

This snails-pace development of capitalist agriculture was also reflected by the very small percentage of arable land which was

under cultivation in the district.(151) The 1936 Commission of Enquiry into farming conditions in the district further noted the detrimental effect of continued subdivision of white farms, which resulted in the majority of white farms being extremely small and as a consequence they were often uneconomical and overpopulated. The majority of white farms were described as 'tiny' and were more often than not occupied by more than one white family.(152) By 1936 drought and soil erosion had taken their toll on white farmers as well, and the foremost concern in the district was over growing white indigency.(153) The priority during this period, according to the Commission of Enquiry, was to instigate relief schemes and a social welfare programme for white farmers.(154) It was strongly asserted by the Commission that "unless preventative action is taken then within the next 15 years the entire district will be poverty stricken."(155)

The commission did note the exceptions to this failure in 'white agriculture'. By the late 1930s both citrus and tobacco concerns were prospering and growing, and the establishment of farming cooperative societies further facilitated the developing economies of scale in these sectors of agriculture.(156) However, shortage of labour on white farms was generally reinforced by the inability of unsuccessful white farmers to attract African wage labourers onto their land.

Little more needs to be said about the general conditions on white-owned farms in the district, but the problems and demands of these farmers, where they related to the questions of African

tenancy on white farms, deserve some attention.(157) With the exception of the citrus and tobacco farmers, all the farmers giving evidence to the 1936 commission expressed their reliance on labour tenants to meet their labour requirements. Their inability to recruit wage labourers was based on a number of factors. The primary problem experienced by white farmers was that they could not afford to pay wages which were competitive when compared with wages available to Africans in easily accessible urban areas in Pretoria and the Rand. This was exacerbated by the generally poor prices being received for agricultural goods during the period under review.(158) These factors coupled with the harsh conditions of labour on white farms and the self-acknowledged widespread maltreatment of African labourers by white farm owners, made wage labour on white farms the least appealing option for Africans entering the wage labour market.(159)

As a result Africans who were entering the labour market were inclined to migrate to the urban areas rather than take up wage labour on white farms. This was a practice which was noted with considerable concern by white farmers who almost unanimously appealed to the Commission to advise that measures be implemented to prevent the mines from recruiting labour from the Rustenburg area.(160) Many white farmers even appealed that they be allowed to use 'illegal' labour from 'Nyasaland' and 'Blantyre' and complained that the local mines were continuing to utilize this 'cheap' labour despite it being illegal, whilst farmers were prohibited from doing so.(161) White farmers appealed to the Commission for state assistance in recruiting labour and many suggested the establishment of 'labour depots'.(162)

Another central thrust of the farmers' evidence was an appeal that the Masters and Servants laws, the pass laws and the Urban Areas Act be more rigourously applied.(163) They even suggested that some new law be framed forcing 'natives' into the reserves and onto the white farms, that no Africans under the age of eighteen be granted passes to leave the rural areas and that no further land be granted to the chiefdoms of the area either by purchase or in the form of trust land available for renting.(164) Finally, it was commonly asserted by white farmers that the state should do more to encourage Africans to take up farm labour through offering such concessions as the remission of tax for 'reliable' farm labourers.(165)

Quite apart from their own interests, white farmers claimed that their recommendations were in the best interests of the 'native population' as well. They bemoaned the 'unruly nature of rural natives' who had been exposed to the influence of 'communist propaganda' in the towns(166) and suggested that farm life was better for both the morale and health of the 'tribal natives'.

> "We maintain that owing to the overcrowing of natives in the towns it is undermining their health. The two essential things for a native is sunshine and milk, and they get neither in the towns."(167)

White farmers giving evidence to the Commission estimated the farm labour shortage during the late 1930s to be at least 50%.(168) The most significant effect of this continued labour shortage was the bargaining power which it afforded to rural Africans in the

district. It was only when offered considerable inducements that these Africans would take up residence on white farms rather than enter the urban wage labour market. To this factor can be attributed the main reason for the maintenance and extent of the system of labour tenancy throughout the period under review.

Relly is not incorrect in identifying increasing pressure on labour tenants in the district during this period, but the very vulnerability of white farmers limited the extent to which they themselves could afford to embark on this process. The implementation of 'anti-squatter measures' during the 1920s and 1930s did not have the immediate effect of driving labour tenants off the white farms or into migrant labour. Rather the process was a gradual one which prevented, wherever possible, the formation of new tenancy arrangements (in particular on a rent paying basis),(169) but which also gradually pressurised established labour tenants more and more into full time wage labour on the farms by continually increasing their obligations to white employers. Even this process, however, was not systematically embarked upon by the end of the 1930s.

Emerging out of the Native Farm Labour Committee of 1937, a local committee was established in the Rustenburg area to assess whether or not Chapter 4 of the Native Trust and Land Act of 1936 should be applied in the district.(170) This chapter of the Act ...

> "... whilst developing residential and territorial segregation, recognises that natives must of necessity continue to reside on European-owned farms so as to provide the requisite supply of farm labour to the owners."(171)

Chapter 4 dealt with three categories of Africans on these farms: (1) 'Servants'; that is full-time 'servants' continuously employed by the farm owner under contract; (2) Labour tenants, also obliged to serve under contract and (3) 'Squatters'; Africans who were neither 'servants' nor labour tenants; for example, rent payers or those farming 'on the half'.(172) The Chapter placed no restrictions on the numbers from the first category that could be resident on white farms. However, all labour tenants had to be registered with the Native Commissioner at the registration fee of one sixpence per tenant, and provision was made for the establishment of a Labour Tenants Control Board to ensure that only the number of labour tenants necessary were registered on any farm. This was based on the assumption that ordinarily 5 labour tenants were required by a land owner on each farm, and on the further assumption that every such labour tenant was under contract to render service to the landowner for a minimum of 4 months a year.(173)

The primary aim of the legislation, however, was to eliminate category 3 altogether. All 'squatters' had to be registered with the Native Commissioner and an annual fee was payable for each squatter. This fee increased over time.(174)

> "It will be realised, therefore, that the act contemplates that the fullest freedom should be allowed farm owners as regards the employment of native servants, that labour tenants should be permitted subject to regulation and control for the prevention of abuse and that squatting should be permitted as a necessary evil for a limited period, but should be eliminated after thirty years."(175)

The Committee established to investigate the appliation of Chapter four to the Rustenburg district,[176] on the basis of evidence led by white farmers in the area, recommended that the chapter be applied to the entire district, and claimed that there were no white farmers opposed to the measure.[177] The Committee recommended that service by labour tenants should be set at four months per year (one month more than was the 'usual practice') and asserted that this would not lead to tenants leaving the farms in great numbers.[178] The Committee stated that there were still large numbers of tenants in the area which fell into category 3 and could be defined as 'squatters'. However, it was claimed that if Chapter 4 was applied, many of these would enter wage labour on the farms, or labour tenancy contracts.[179] Finally, the committee noted that white farmers in the district were unable to assert any control over the labour supply in the area and that this would to some extent be remedied by the application of Chapter 4.[180]

Despite the recommendations of the Rustenburg Committee, Chapter 4 of the Natives Trust and Land Act of 1936 was not applied to the district.[181] In fact, Rogers notes that by 1949 Chapter 4 had not been implemented anywhere in the Union.[182] Consequently various forms of tenancy on white-owned farms remained available to African agricultural producers in the region until at least the end of the 1930s, and white farmers themselves recognised their dependency on these forms of labour during this period.

In conclusion, it is apparent that migrancy to the towns and labour tenancy on neighbouring white farms during the 1920s, although often the product of land shortage and over-crowding in the Rustenburg reserves were not the exclusive product of the irreversible decline of the rural economy. Indeed, the complex reasons for both migrancy and labour tenancy can only be properly understood through an examination of the comparative material conditions experienced by and within different chiefdoms in the district. In particular, the reasons for entrance into the migrant wage-labour market were varied and complex, and are only understandable in the context of struggles revolving around the social and economic stratification within these communities. Rather than representing a unilinear response to the irreversible decline of the rural economies of the Rustenburg district, labour migration and labour tenancy on white farms probably did more to actually stave off the deterioration of peasant communities. However, the general vulnerability of the majority of peasant families has been noted, and the drought period from 1925 until 1930 (when the Native Economic Commission took evidence in Rustenburg) was clearly beginning to take its toll. The continuation of the drought over the next seven years reached critical proportions, and resulted in something of a crisis in the rural economy of the Rustenburg district.

IV Rural Decline and State Intervention

By 1932 Rev. Stegmann wrote of the Pilansberg N.A.D. district that: 'things have never been worse, for the last twenty six years at least'.(183) He pointed to the fact that for three years running

crops had failed due to drought and that there had been a drastic reduction in the size of herds of cattle. Having two years earlier pointed out to the N.E.C. that the Bakgatla of Saulspoort were amongst the most advanced tribes in the Union, he wrote in 1932:

> "The idea that the Bakgatla tribe is rich is a fallacy."(184)

Writing at the beginning of April, Stegmann warned that if it did not rain within ten days, the entire crop, of which 80% had already been lost, would be written off completely. He claimed that numerous families were already without food and depended on wild fruits for their livelihood. He noted that the drought on white owned farms was also driving people back into the reserves, as white farmers could no longer employ them. The remaining cattle had depreciated in value and Stegmann recounted that people were exchanging an oxen for two bags of mielies when they had the opportunity.(185) Stegmann concluded that:

> "I am afraid that unless something is done to remedy to some extent the present state of things, numbers will perish and thousands of others will drift to the towns."(186)

By February of 1933 the situation had become even more disasterous. The Rustenburg Herald reported as follows:

> "Although the whole of the Union has had to suffer during the last few years, in no part have the conditions been more felt than in Rustenburg. This has been caused chiefly by either decreased or irregular rainfall and many of the country people have been brought down to the verge of starvation ... Not a bag of maize

> should leave the district, in fact supplies should be augmented if necessary, and the government should buy, or even commandeer foodstuffs required ... It may soon be too late."(187)

By March of 1933 there were reports that in areas of the Fokeng chiefdom there were no crops at all and numbers of people were either starving or living off melons and berries.(188) No crops were reaped at Bethanie either, and the Rev. Behrens reported that by mid-1933 all stored grain in the village would be exhausted. He reported that a number of people were already taking up employment and accepting just a plate of food as payment.(189) By the end of April Behrens reported that there were 356 families in Bethanie alone who did not have a single bag of grain.(190) He estimated that 4 272 bags of grain would be the minimum required to tide these people over till May of 1934.

By June of 1933, any trade in grain had completely ceased in the district and the entire area was described as destitute.(191) Famine relief measures were instituted, but were provided only for those in the 'locations' and not for those on white owned farms.(192) By 1935 although there was a mild recovery, rainfall remained poor.(193) Nonetheless conditions were sufficiently improved to hold a 'Native' agricultural show during 1935.(194) However, similar proposed shows were called off during 1937 and 1938 due to continuing drought, and in 1939 the show was again postponed because of locust invasions.(195) By this time the long term effects of the drought were becoming manifest and for the first time extensive anti-soil erosion measures were initiated in the African reserves of the Rustenburg district.(196)

The effect of the ten years of almost continual drought between 1925 and 1935 had by the end of this period fundamentally undermined the peasant economies in the district and had seriously impaired their abilities independently to recover from these circumstances. At the end of 1936 this was clear to N.A.D. officials and a commission of enquiry was established to examine appropriate 'rehabilitation' measures under the 1936 Native Trust and Land Act.(197) This act was viewed by government as a complement to the 1913 Land Act and represented formal acceptance of the principal of segregation. Under the Act certain areas of land were to be 'released' and were available either to be owned or held in trust for Africans.(198) In the Transvaal 4 753 992 morgen of land were to be released out of the national total of 6 729 853 morgen.(199) Rogers asserts that the priority of the Act was remedial measures designed to 'give the reserves an opportunity to recover.'(200)

The commission established in Rustenburg took evidence from white farmers in the district with the object of establishing where purchaseable land was available in the area. The majority of these farmers proved willing to sell their lands provided they received adequate compensation.(201) However, it is the evidence of the African chiefs which reflects both the prevailing conditions in the reserves, as well as their central concerns. Most of these chiefs complained about overcrowding and overstocking on their 'locations' and, with the exception of Chief Mogale of the BaPo, they complained about the lack of water facilities on their lands.(202) Mogale stated that although there was a reasonable water supply on his

lands there was a substantial shortage of available 'ploughing lands'.(203) As well as requesting extensive additions of arable land, chiefs also made requests for land which they had historically occupied:

> "We have made a list of farms we want the government to buy for us. They are all lands where our ancestors are buried. Our location is very congested. Many of the people are away at work. Some have been away for a long time. Others come home for visits ... If land is bought for us some of the people would like to come home for good."(204)

In a similar vein chief Ramakoka of the Pilansberg district suggested that if land was bought for him 'the tribe would be willing to come together.'(205) A number of the chiefs from the smaller chiefdoms pointed out that their chiefdoms were deeply in debt and requested that they be given the land as they could not afford to purchase it.(206) These smaller chiefdoms were also apparently more concerned with gaining access to extended grazing land rather than ploughing land and this suggests their diminished stake in cultivation activities.(207)

By contrast Chief Mogale of the BaPo asserted that his people were not concerned with land which could be rented, but were only interested in land which they could purchase.(208) Chief Mokgatle's land requests were motivated by concern to gain 'control over one concrete block' of land, his concern being to consolidate all the lands of the Fokeng chiefdom into a single unit.(209) Furthermore, Chiefs Mabe, Mokgatle, Pilane and Mamogale all expressed a desire that land be made available for individual

purchase and specifically that chiefs be allowed to buy land for themselves.(210)

> "I would like the Commission to consider my request that a chief should be able to buy land for himself if he is able to do so."(211)

Evidence to the Commission reflects that despite the general impoverishment of the rural reserves during the 1930s, conditions still varied considerably in different chiefdoms. This fact is reflected both in the differing priorities of the chiefs giving evidence, as well as in the report of the Commission which followed. In the course of taking evidence, the Commissioner Mr. Nichols, gave some indication of this differentiation when he encouraged the chiefs of the small and isolated Phiring, Kwena ba Modimosana ba Mmatau and Kwena ba Modimosana ba Maake chiefdoms, to give up their isolated reserves and accept new lands in exchange, or consolidation into one of the larger chiefdoms. When told by Chief Mabalane of the Phiring that his people would refuse to move, Nicholls responded thus:

> "Nobody can force you to move, but you will no longer be able to hire the ground you have been hiring for years ... and the need for expansion will grow bigger."(212)

Nicholls was much more explicit in the Commission Report. He identified the three smallest isolated chiefdoms as "little black spots without any possibility of expansion" which should "coalesce with larger locations in order to provide for the legitimate wants of the natives inhabiting them."(213) In view of this, he

suggested that Mabalane's location, Ratsegae's location and Selon's location be 'liquidated'(214)

> "If a fair and generous exchange is offered with due regard to tribal affinities and ethnical considerations, the Committee is of the opinion that the exchange can be effected with little trouble."(215)

The broad recommendations of the Committee were based on four stated factors which were regarded as 'economical and physical necessities.': Firstly, the congested condition of the locations; Secondly, the unproductive state of the locations as a consequence of overcrowding and overstocking; Thirdly, the resultant drift to the towns of 'whole families of natives' and finally, the need for 'giving the department ample scope for effective planning both in the reallocation of land purchased and in making provision for future purchase.(216)

In its report, the Commission was at pains to assert that it had not been influenced by the demands of chiefs who inevitably 'asked for more land than they need'.(217) It was also asserted that released land should be rented and not sold or handed over to the chiefs ...

> "... to do what they liked with and thus give them an opportunity of reducing it (released land - G.S.) to the same condition as the locations."(218)

Finally it was noted by the Commission that transfer of ownership of land to the trust did not mean automatic or immediate settlement by Africans. the Commission recommended that ...

> "... Proper plans must be made with agriculturalists, land settlement officials and skilled anthropologists ... Concurrently with the actual settlement of Natives on these lands should go the study and development of Native government; for, in the opinion of the Committee, we are set out to build up a new Native society for the future in which all sections of the native people must play their part."(219)

The Committee recommended:

1. The excision from the scheduled native Area of 17 031 morgen of land. This amounted to the removal of the three small chiefdoms mentioned above. It was, however, acknowledged that the disestablishment of these scheduled areas could only be achieved by an act of parliament if the chiefdoms involved would agree to a land exchange.

2. The inclusion in the released area (involving purchase) of white-owned farms to the extent of 55 614 morgen; and

3. The immediate purchase of additional farms offered to the trust, to the extent of 60 459 morgen.(220)

By 1938 a large amount of this land had already been bought by the trust. At this point it was made clear that the majority of the Commission's recommendations had been accepted and that it was "... intended to effect the settlement of trust land, as far as possible, on a tribal basis ..."(221)

The following lands were due to be allocated to the Chiefdoms of the district or were recommended for purchase.(222)

Chiefdom	Morgen/sq.rds.
Fokeng	33 662/439
Kwena ba Mogopa	5 889/377
Kwena ba Modimosana ba Matlhaku	40 122/98
Ba Po	26 572/399
Tlokwa ba ga Botasu	25 957/227
Phiring	none
Kwena ba Modimosana ba Mmatau	none
Kwena ba Modimosana ba Maake	none

These rehabilitation measures reflect to some extent the contrasting conditions in the various chiefdoms by the end of the 1930s. Those chiefdoms which were still considered to be 'viable' and capable of recovery were allocated the land seen to be necessary to this process. The smaller more isolated chiefdoms were, however, given the option of removal or stagnation. These smaller chiefdoms were identified as 'black spots' which would eventually 'have to be removed'.(223)

The settlement of newly released land on a 'tribal basis' was accepted by the N.A.D., thereby further frustrating any individual purchase of land, although individuals were able to rent these lands. This was acknowledged by the N.A.D. officials as being slightly problematic, as the large number of 'detribalized natives' were seen to be unlikely to return to the land on this basis (224).

> "The particular needs need to be emphasised also of the large and growing classes of rural Native who aspires to live on and cultivate his own plot of ground. If evidence is wanted of the existence of this class, I need only refer to innumerable applications with which the Department has had to deal in recent years made by Natives individually and in communities, varying in number from two or three to scores of Natives, to buy land in their own right. They form a particular class among location residents, and I feel that the Committees, in dealing with the locations and the extra ground which they consider necessary for the needs of the locations, might have borne these particular classes in mind and have made provision for them by earmarking farms in released areas upon which these Native might have been settled. In my opinion this type of Native is to be encouraged. To settle them contentedly now is to build up a class of Native who will be of infinite value to the administration of the future, when the clash comes, as I believe it will come, between the settled forces of law and order and the subversive forces now being inculcated through industrial influences among the Native population."(225)

Furthermore, it was identified by N.A.D. officials that increasingly ...

> "... the chiefs have very little control of their tribes and it would be fatal to expect that they will be able to control overstocking of trust property."(226)

State intervention through the 'rehabilitation programme' of the late 1930s, appears from the above to have been as concerned with the political imperatives of segregation (the removal of 'black spots' the entrenchment of communal rather than individual ownership, and the development of 'Native government') as it was with the resuscitation of the reserve economies in the wake of the disasterous drought.

The process of land allocation under the 1936 Trust and Lands Act can clearly be seen to have benefitted the more affluent chiefdoms whilst further depriving the small and more vulnerable ones. As such, the state's 'rehabilitation' programme reinforced the stratification within and between chiefdoms in the district, further complicating the complex processes of socio-economic stratification in these Tswana communities. It would therefore be simplistic merely to identify the collapse of rural Tswana economies in the Rustenburg district during the 1930s, as a consequence of ecological disaster. Rather, it is necessary to trace the effects of these developments on the processes of political and economic stratification within these communities and the extent to which this was manipulated by the capitalist state. However, it is nigh impossible neatly to classify the economic interest groups or different class interests which were developing within these chiefdoms. Indeed, throughout the 1920s and 1930s these differing and often conflicting material interests were only identifiable through the expression given them in political and ideological struggles being waged within the various chiefdoms of the district. In each of the chiefdoms of the district the particular material conditions experienced, and which have been described in this chapter, gave expression to political and ideological struggles largely focussed on a challenge to chiefly control over vital rural resources. The remarkable feature of these struggles was that despite differing material conditions within the varius chiefdoms, and despite the contrasting periodization of rural decline in the different communities, these struggles took similar forms and

ideological expressions in every instance. In order to identify and interpret the complexities of rural African class formation in the Rustenburg district during the 1920s and 1930s, it is therefore necessary to now turn to these concrete political struggles.

CHAPTER TWO FOOTNOTES

1. Breutz, P.L., The Tribes of the Rustenburg and Pilansberg Districts, Ethnological Publications No. 28, Pretoria : Department of Native Affairs (1953), p. 3.

2. ibid., p. 4; L.D.B. 2082, R3701, Investigations into Farming conditions (May 1936), Report, p.2. The Rustenburg Magisterial district was the second largest district in the Transvaal.

3. Breutz, P.L., ibid., pp. 4 - 5; L.D.B. 2082, R3701, ibid., pp. 2 - 3.

4. Ibid., pp. 3 - 4.

5. ibid., pp. 7 - 10; Breutz, P.L., The Tribes, pp. 5 - 7. S.A.B.A., K/26, Evidence of Penzhorn to the Native Economic Commission, 1930-32 (hereafter N.E.C.), pp. 965 - 6; 981; 1018 - 9.

6. L.D.B., 2082, R3701, Investigation into Farming Conditions p.7. These figures applied in 1930. However, the Commission report suggested that due to the prolonged drought during the 1930s, the figures for 1936 were even lower.

7. Breutz, P.L., The Tribes, p. 41; S.A.B.A., K/26, Evidence of Penzhorn to N.E.C., p. 981-2; S.A.B.A., K/26, Emmett to N.E.C., pp. 1071; 1087.

8. Breutz, P.L., The Tribes, p. 5.

9. ibid., p.5

10. Table I drawn from Breutz, P.L., ibid., p.6. These figures relate to the magisterial district as a whole.

11. Table II drawn from L.D.B., 2082, R3701, Investigation into Farming Conditions, pp. 4 - 5. The 10 places listed here are drawn from various parts of the magisterial district and therefore represent a sample for the entire region.

12. ibid., p.5.

13. ibid., pp. 7 - 8. Also see : N.T.S., 7943, 185/337, Rustenburg water supply, Native areas (1931-1933); and N.T.S., 1944, 185/337, Rustenburg water supply, Native areas (1933-1940).

14. Kinsman, M., 'The Impact of the Difaqane on Southern Tswana Communities, with special reference to the Rolong', Paper presented to the History Workshop on 'Class, Community and Conflict: Local Perspectives', University of the Witwatersrand (February 1984), pp. 17 - 18.

15. Breutz, P.L., The Tribes, pp. 56 - 64.

16. ibid.

17. ibid., pp. 90 - 1. Breutz claims that the Kwena ba Mogopa were soundly defeated by the Ndebele and were dispersed in and around the immediate area. There was no mass migration of the tribe, however, and the Kwena ba Mogopa soon acknowledged Mzilikazi's superior authority. Breutz suggests that thereafter the Kwena ba Mogopa lived in 'relative peace' with the Ndebele for a few years until they were jointly defeated by a Zulu army sent by Dingane (approximately 1834 - 6). ibid.

18. ibid., pp. 127 - 8, on the Kwena ba Modimosana ba Matlhaku; and pp. 144 - 50, on the Kwena ba Modimosana ba Maake.

19. ibid., pp. 202 - 4, and p. 216, on the Tlokwa ba ga Bogatsu, on the Phiring.

20. Kinsman, M., 'The Impact of the Difaqane', pp. 19 - 20.

21. ibid., p. 25.

22. ibid., p. 27.

23. ibid.

24. Breutz, P.L., The Tribes, pp. 62 - 4; 91; 182-3. See also, Relly, G., 'Social and Economic Change Amongst the Tswana in the Western Transvaal 1900 - 1930', M.A. Thesis, School of African and Oriental Studies, University of London (1978), pp. 1 - 4.

25. ibid., pp. 2 - 3.

26. In Simpson, G.N., 'The Political and Legal Contradictions in the Preservation and Dissolution of the Precapitalist Mode of Production: The Fokeng Disturbances, 1921 - 6', B.A. (Hons.) dissertation, University of the Witatersrand (1981), pp. 12 - 13., this process of conquest was contrasted with the fate of Zululand, where the process of primitive accumulation through conquest was much more direct and colonization much more closely associated with military conquest. Unlike for the Tswana of the Rustenburg district, the direct and rapid conquest of the Zulu did not facilitate the adaptation of Zulu socio-economic and politico-ideological structures to colonial circumstances, but instead resulted in the rapid disintegration of those structures. See Guy, J.J., 'The Destruction of the Precapitalist Economy and the

Origins of Labour Supplies : The Zulu Case', Conference on South African Labour History, African Studies Institute, University of the Witwatersrand (April 1970); Guy, J.J., 'Ecological Factors in the Rise of Shaka and the Zulu Kingdom', Workshop on Production and Reproduction in the Zulu Kingdom, University of Natal, Pietermaritzburg (October 1977); Guy, J.J., 'Production and Exchange in the Zulu Kingdom', Workshop on Precapitalist Social Formations and Colonial Penetration in South Africa, National University of Lesotho (July 1976); Wright, J., 'Women and Production in the Zulu Kingdom', History Workshop on Precolonial Nguni Societies, Rhodes University (1979); and Marks, S., Reluctant Rebellion. The 1906 - 1908 Disturbances in Natal, Oxford : Claredon Press (1970), esp. pp. 41 - 2 and 128 - 30.

27. Breutz, P.L. The Tribes, p. 16.

28. ibid., p. 65.

29. Relly, G., 'Social and Economic Change', p. 3.

30. Breutz., P.L., The Tribes, p. 161.

31. ibid., pp. 182 - 6. Breutz describes how the Ba Po chief Mogale fled to the Orange Free State as a result of this conflict, leaving behind all his belongings and over 1 000 head of cattle.

32. ibid., pp. 112; 144-50; 202-4. This applied to the Kwena ba Modimosana ba Mmatau, the Kwena ba Modimosana ba Maake and the Tlokwa ba ga Bogatsu.

33. Hermannsburger Missionblatt (December 1867), p. 247.

34. ibid. (October 1868), pp. 194 - 5.

35. ibid. (July 1910), p. 195.

36. This aspect is thoroughly discussed and elaborated in Chapter 6.

37. Breutz, P.L., The Tribes, p. 42.

38. ibid., pp. 42 - 3.

39. ibid., Chapter six deals in more detail with the establishment of these missions in the district and explores the relationship between missions and chiefs which is hinted at here and referred to in Hermannsburger Missionblatt (July 1910), pp. 195-7.

40. S.A.B.A., K/26, Penzhorn to N.E.C., p. 972.

41. Breutz, P.L., The Tribes, p. 128.

42. ibid., p. 113.

43. ibid., p. 150.

44. Hermannsburger Missionblatt (October 1868), p. 196.

45. This point is one of the central theses of Relly's work. Relly, G., 'Social and Economic Change', p. 5.

46. ibid. Ernst Penzhorn, the Lutheran missionary amongst the Fokeng outlined this trend. He said of the chief Mokgatle Mokgatle "Daar die ou Kaptein het vir die volk baie plase gekoop" S.A.B.A., K/26, p. 972. Penzhorn to N.E.C.

47. Breutz described the land settled by the BaPo as the best watered area of the entire district. It was in these eastern and central northern areas of the district that the intrusions of rich black turf prevailed. Breutz, P.L., The Tribes, pp. 176; 193-4. Also S.A.B.A., K/26, Penzhorn to N.E.C., p. 981. Relly briefly mapped out the successful expansion of Fokeng agriculture during this early period. She noted that in 1866 there was only one plough and one wagon to be found at Phokeng and only a limited portion of land was under cultivation. By 1895 almost every family had an ox and a plough and there were five successful retail stores operating in the village. Relly, G., 'Social and Economic Change', p.8.

48. Breutz, P.L., The Tribes of ..., op cit., pp. 107 - 8.

49. ibid., pp.; 124; 140 - 2 and 157.

50. This limitation became more rigid after 1881 when the Native Locations Commission was established to reserve specific areas of the Transvaal for occupation by Africans. The Commission set out the legal process of land purchase by Africans which depended on the transfer of land being effected through the Commission and held in trust by an officer of the government. See Relly, G., 'Social and Economic Change', p. 10.

51. Hermannsburger Missionblatt (January 1891), pp. 14 - 16.

52. ibid. (October 1893), p. 167.

53. ibid. p. 168.

54. Mokgatle, N., Autobiography of an Unknown South African, London : Hurst and Co. (1971), p. 1.

55. Hermmansburger Missionblatt, Annual Report (1897), referred to in Hermannsburger Missionblatt (January 1899), pp. 17 - 18.

56. ibid., p.18.

57. ibid. (December 1908), p. 373.

58. ibid., pp. 374-5.

59. Relly, G., 'Social and Economic Change', pp. 17 - 8.

60. It should be noted that as late as 1907, missionary Behrens of Bethanie reported that the effects of the 1890s Rinderpest epidemic were still being felt. He reported that ...

> "... the government slaughtered all the cattle at Bethanie at my instigation since we have not been able to root out the Rinderpest here since the war. The people were against slaughtering the 55 head of cattle, but I pushed it through in Pretoria."

Behrens claimed that as many as 8 000 head of cattle were lost as a result of the epidemic. Hermannsburger Missionblatt (December 1908), p. 373.

61. Bundy has suggested that as early as the 1870s land was being privately purchased by Africans in various parts of the Transvaal. Bundy, C., The Rise and Fall of the South African Peasantry, London : Heinemann (1979), pp. 202 - 04. Also Bundy, C., 'The Emergence and Decline of the South African Peasantry, African Affairs, Vol. 71, No. 285 (1972), p. 380.

62. Breutz, P.L., The Tribes, p. 35; Relly, G., 'Social and Economic Change' p. 6; S.A.B.A., K/26, Penzhorn to N.E.C., pp. 972, 1010 and Mokgatle, N., Autobiography, pp. 44 - 5.

63. Relly, G., 'Social and Economic Change', p. 16.

64. ibid., p. 17 - 27. Also see Simpson, G.N., 'Political and Legal', pp. 16 - 18.

65. ibid., p. 18.

66. Relly, G., 'Social and Economic Change', pp. 26-28; She claims that this rather depended on the control over cattle and women.

67. This urgency was stimulated by both the imperatives of production and impending legislative measures. The former were largely the consequence of the shift in the emphasis of production from pastorlism to agriculture, effected in large part by the Rinderpest pandemic. The latter, based on the recommendations of both the Beaumont Commission and the 1905 South African Native Affairs Commission threatened to restrict African land purchase to those areas formally demarcated as reserved African locations. Also see footnote 50 above and Relly, G., 'Social and Economic Change' pp. 17-18.

68. ibid., p. 28.

69. S.N.A., 62, 424/06, NC to SNA (22/2/1906).

70. Of the 19 applications to purchase land individually between 1914 and 1924 which I have examined, all were refused by N.A.D. officials on the basis that the process of 'tribal' (communal) purchase was to be strictly enforced. These 19 examples were all drawn from N.T.S. correspondence. A particularly interesting example which reflects the rigidity of N.A.D. policy is cited in N.T.S., 3438, 53/308, Purchase of Land by Residents of Bethlehem Location (1921 - 3). 226 residents of the Rustenburg 'urban location' of Bethlehem, having lost access to land which they previously rented from the Rustenburg municipality, applied to buy some land on which they wanted to settle under a chief either to be elected or chosen by the government from amongst them. The applicants, who claimed to be of 'mixed blood', had all supposedly been born and bred in the urban location and claimed to be unable to either understand, or subject themselves to, 'native law'. Their application was refused on the grounds that for the purposes of the Natives Land Act of 1913 they were considered 'natives' and could therefore only buy land within a sheduled 'native' area and that such land could only be purchased 'tribally'.

"It is obvious that areas of crown land, which as regards potential native settlement is very limited, should not be lightly assigned to ... any casual applicant, but that only claims would be considered of tribal natives who are in a position to develop and beneficially exploit the property ..." ibid., S.N.A. to S.N.C. (9/9/1922).

These Bethlehem 'Oorlams' were eventually granted 'squatting rights' (rental of £2 per head per annum for males over 21 and widows) on crown land, on condition that 'a headman, approved of

by the government and elected by the community' be appointed, "whose duty it shall be to keep order on the farm and report all irregularities to the proper authorities ..." ibid., S.N.C. to S.N.A. (9/11/1922).

71. This is documented in detail in the discussion of the Fokeng disputes relating to the farms Welbekend and Kookfontein in Chapter four below. See N.T.S. 3451, 86/308 and N.T.S. 316, 15/55.

72. S.A.B.A., K/26, Penzhorn to N.E.C., p. 973. Quoted in Simpson, G.N., 'The Political and Legal Contradictions', p.20.

73. S.N.A., 27, 2116/04, J.O.M. Mamogale to S.N.C. (19/12/1905).

74. Increasingly during the 1930s, people in the outlying districts of these chiefdoms were reneging on their responsibilities with regard to contributions toward communally purchased land which they did not see as benefitting themselves. Indeed, there were even a number of attempts to secede from the jurisdiction of the chiefs involved. Refer to N.T.S., 3792, 2483/308; N.T.S., 326, 37/55; N.T.S. 323, 26/55; N.T.S. 331, 56/55; N.T.S. 325, 37/55. The case of the Kwena ba Mogopa is the focus of chapter five.

75. S.N.A. 83, 884/08, Paulus Khunow versus August Mokgatle and Modisakeng Tetlele versus August Mokgatle. Ownership of farms Turffontein and Klipfontein (1908).

76. For example, the farm Kaffirskraal 805 was purchased in this manner by the Taung ba ga Selale in 1911. N.T.S., 3438, 51/308, Farm Kaffirskraal or Sefanyaskraal (1911 - 48). Attempts by members of the Fokeng chiefdom to purchase Welbekend 738 in this manner, failed due to the chief's refusal to sanction the purchase. N.T.S., 3451, 86/308.

77. S.A.B.A., K/26, T.A. Emmett to N.E.C., p. 1073.

78. Relly, G., 'Social and Economic Change', p. 31.

79. S.A.B.A., K/26, Penzhorn to N.E.C., p. 983.

80. S.A.B.A., K/26, Chief Zibi to N.E.C., p. 1126; S.A.B.A., K/26, Mokgatle to N.E.C., p. 1095.

81. N.T.S., 1372, 1/213, Tribal Audit Rustenburg (1924 - 5). Also N.T.S., 5107, 207/313c, Natives Revenue Account (1924 - 39); N.T.S., 9551, 177/400, Banking Account Phokeng Tribe (1930).

82. See for example N.T.S., 1388, 71/213, Rustenburg Tribal Levies (1928-61); N.T.S., 1392, 41/213, Rustenburg, Baphiring Tribal Levy (1926-1944); and N.T.S., 1388, 71/216, Collection and Administratin of Tribal Levies, Act. No. 41 of 1925 (1931-1941). These issues are dealt with extensively in the chapters below.

83. Breutz, P.L., The Tribes, p. 24. Relly suggests that between 1909 and 1916 the population of the Rustenburg Magisterial district increased by 20 000. Relly, G., 'Social and Economic Change', p.32.

84. Breutz, P.L., The Tribes, p.24. Breutz suggests that the 1946 census figures were probably much lower than they should have been. He claims that the number for the entire magisterial district was probably nearer to 130 000, and for the Rustenburg N.A.D. district, closer to 81 000.

85. ibid., p. 26a, Table VI : N.A.D. District of Rustenburg, distribution of population over categories of land according to census of 1946. Although the figures from the 1946 census are only of limited use in gauging the population distribution during the previous two decades, and despite Breutz's suggestion that the census figures were slighty inaccurate, the 1946 census is the only detailed demographic breakdown available for the district which is within a reasonable time-span of the period under review.

86. The statistics provided in this table have been drawn from a wide range of sources. The central sources were two volumes of files in the N.T.S. collection : N.T.S., 10219, 10/423/1 to 10/423/14, and N.T.S., 10220, 10/423/15 to 10/423/17. These 17 files dealt with 'rehabilitation and land reclamation' in seventeen chiefdoms of the Rustenburg magisterial district between 1931 and 1947. All the figures on the table, were accurate in 1936. These figures were also reproduced with only insignificant variations in N.T.S., 3644, 1227/308, Native Trust and Land Act 1936, Native Affairs inspection (1936-41). However, none of these references dealt with the tiny Taung ba ga Selale chiefdom which only owned two portions of the farm Kafferskraal 805 which were bought in the name of the chief and 7 and 14 individuals respectively. The incomplete statistics provided here were drawn from Breutz, P.L., The Tribes, pp. 159-74 and N.T.S., 3438, 51/308, Farm Kafferskraal or Sefanyaskraal (1911-48).

The figure given for cattle units in the last column in the table, represents a standard in which five small stock equals one cattle unit. Therefore, No. of cattle units = No. of large stock + (no. of small stock divided by 5). Also see N.T.S., 3941, 241/311(a) Livestock Returns (1936-1942).

The single dubious statistic included in the table is that provided for the population of the Kwena ba Modimosana by Matlhaku chiefdom. This same figure was given both in N.T.S., 10219, 10/423/4, Rehabilitation Pella's Location, and N.T.S., 3644, 1227/308. However, Breutz quoted the 1946 census figure for this chiefdom's population as 3860. In 1950 he suggested that the population in the district was ± 4,300 strong and that the total population of the tribe at that time was between 5 300 and 5 800. Breutz, P.L., The Tribes, p. 22d, Table IV. Breutz's statistics seem more realistic, although in Rex versus Finias Moroane and 23 others (1941) the chief of this chiefdom, David Moshome Gasebone gave evidence that he ruled 8 000 people of which 1 500 were registered tax payers. N.T.S., 3792, 2483/308, BaKwena-Ba-Molimosana (Chief Moshome Rustenburg) Secession of Certain Natives from (1935-42); Rex vs. Finias Moroane and 23 others (1941), p.6. It is possible that the number of 8 000 quoted in N.T.S. 10219, 10/423/4 and N.T.S., 3644, 1227/308 was also based on the estimation of the chief, although this is unlikely. Breutz suggests that in 1950 the population density of the land owned by the Kwena ba Molimosana ba Matlhaku was much the same as that on land owned by the Kwena ba Mogopa (50 - 51 persons per square mile). As both chiefdoms had approximately the same amount of land, it can be assumed that the population on these respective tribal lands was much the same. Breutz, P.L., The Tribes of, p. 22d.

87. L.D.B. 2082, R3701, Commission of enquiry into farming conditions (1930 - 7), Report of investigation (5th - 6th/3/1930).

88. S.A.B.A., K/26, Penzhorn to N.E.C., pp. 964 - 6.

89. Relly, G., 'Social and Economic Change', pp. 43-4. Sorghum was generally the most preferred crop in the district due mainly to its drought resistant qualities. Maize was produced as well and was more widely traded than sorghum.

90. S.A.B.A., K/26, Penzhorn to N.E.C., p. 965.

91. Interview with Ernestina Mekwe (undated), pp. 2 - 4.
Acknowedgements and gratitude are due to interviewer M.B. Nkotsoe, who conducted this and all the following interviews referred to below; to the African Studies Institute of the University of the Witwatersrand, which made these interviews available to me and to Belinda Bozzoli who kindly drew them to my attention.

92. ibid. The figure given was produced on 3 fields totalling 28 acres (± 13 morgen). The statistics provided by other interviewees from Phokeng vary considerably but no indication was given as to the size of the fields cultivated. Interview with Evelyn Rakola (undated), p. 5, claimed 15 - 20 bags per annum. Interview with Naomi Setshedi (24/11/81), p. 37., claimed the same figure.

93. S.A.B.A., K/26, Penzhorn to N.E.C., p. 981.

94. ibid.

95. ibid., pp. 1018 - 1019. The development and use of 'progressive farming methods during the 1920s, particularly amongst the Christian majority of the entire district, was noted by Penzhorn, Emmett and Stegmann in their evidence to the N.E.C. One of the commissioners, Major Anderson concluded from their evidence that "... the Native here seems to have got a considerable degree of advancement beyond other districts in South Africa". Evidence of N.E.C., S.A.B.A., K/26, p. 1026. Penzhorn attributed this fact to the longer exposure to 'white civilization' which African inhabitants of the district received. ibid.

96. Breutz, P.L., The Tribes, pp. 119-121.

97. ibid., p. 121. He claimed that the average family produced between 3 and 8 bags of grain in a good year, for most of this period.

98. S.A.B.A., K/26, Emmett to N.E.C., pp. 1071 - 2.

99. S.A.B.A., K/26, Penzhorn to N.E.C., p. 966.

100. N.T.S. 7360, 222/327, Native Shows: Rustenburg.

101. N.T.S., 7219, 96/326, Cattle Sales Rustenburg (1933-51). Also see N.T.S., 7367, 235/327, Rustenburg Bull Camp (1931-1945).

102. S.A.B.A., K/26, Emmett to N.E.C., p. 1073. Penzhorn disagreed suggesting that these demonstrators were 'a waste of time'. S.A.B.A., K/26, Penzhorn to N.E.C., p. 967.

103. This resistance and suspicion was generally expressed through concern at the removal of 'tribal land' from the control of members of the 'tribes' themselves. See N.T.S., 7344, 146/327, Demonstration Plots, Rustenburg (1930-4); and N.T.S., 7430, 403/327, Fodder Plots, experimental and Nursery Plots. However, from at latest 1935, every chief in the district had been won over to the idea of demonstration plots and most were providing land for this purpose themselves. N.T.S., 6811, 6/318 Meetings of Chiefs (1925-37): Minutes of Meeting in December 1935, pp. 18 - 23; 25 - 32.

104. Breutz, P.L., The Tribes, p. 17.

105. N.T.S., 3644, 1227/308, Evidence of chiefs Selon, Mabalane, Tlolwe and Mosome to Native Affairs Commission Re Native Trust and Land Act of 1936 (14th - 16th/9/1936), pp. 6 - 9; 15 - 17. Also see Breutz, P.L., The Tribes, p. 119.

106. S.A.B.A., K/26, Emmet to N.E.C., pp. 1089-90. It should be noted here that the extent of the sale of agricultural goods for cash was limited even amongst the Fokeng. Penzhorn claimed that most of the agricultural surplus produce was bartered or exchanged for goods in kind, and this was usually done with the stores and mills in the immediate vicinity. Penzhorn said that barter was the 'Fokeng form of trade' ... "Dit is hulle geld, want hulle het nie kontant nie; of as hul iets wil koop, dan ruil hul die produkte wat hul in die mandjies dra vir die goed wat hulle wil koop." S.A.B.A., K/26, Penzhorn to N.E.C., p. 982. He went on to claim that Africans received approximately the same value for goods bartered as they might have if they were sold. ibid., p. 982. However, most of the chiefs of the area complained of being 'forced' by local storekeepers to barter, and bemoaned the fact that they received much less in this manner than their produce was actually worth. S.A.B.A., K/26, Ramokoka to N.E.C., pp. 1145-6 and S.A.B.A., K/26, Pilane to N.E.C., p. 1126.

107. Relly, G., 'Social and Economic Change'. This argument is also reproduced in Simpson, G.N., 'The Political and Legal Contradictions'.

108. The lack of accurate statistics documenting levels of migrancy from the district during the period under review, means that it is only possible to identify some of the general trends.

109. Population statistics are cited in the first section of this chapter. As late as 1924 Chief Zibi arrived in the Rustenburg district where he established his independent amaHlubi chiefdom. The tribe migrated from the Transkei with the consent of the N.A.D. Breutz, P.L., The Tribes, p. 22.

110. By 1930 over half the Africans in the Rustenburg district were grazing their cattle on nearby white-owned farms. S.A.B.A., K/26, Emmett to N.E.C., pp. 1065-1068.

111. Relly, G., 'Social and Economic Change', pp. 32 - 7.

112. S.A.B.A., K/26, Penzhorn to N.E.C., p.966; S.A.B.A., K/26, Emmett to N.E.C., pp. 1067 - 9. Relly noted that the water supply on white farms in the district was considerably better than in the 'locations'. Relly, G., 'Social and Economic Change' pp. 32 - 3. See footnote 110 above.

113. N.T.S., 9513, 138/400 (31), Soil Erosion : Rustenburg (1935 - 41); N.T.S., 9533, 138/400 (74), Soil Erosion Works : Rustenburg (1937-8); and N.T.S., 9535, 138/400 (80), Social Erosion Reports : Rustenburg (1938-9).

114. S.A.B.A., K/26, Penzhorn to N.E.C., pp. 1016-7.

115. ibid., p. 1016. "Dr. Roberts: 'Your people would perish if they did not go forth (enter wage labour - G.S.)'.

Penzhorn : 'Yes, the boys have to go out to work, but I do not think it is absolutely necessary for the girls to go out.'" ibid.

116. S.A.B.A., K/26, Penzhorn to N.E.C., p. 974; Emmett to N.E.C., p. 1070.

117. Evidence of chiefs to N.E.C., S.A.B.A., K/26, pp. 1104-1134. Also N.T.S., 1372, 1/213(5), Tribal levies, Rustenburg (1913 - 1928).

118. Relly, G., 'Social and Economic Change', p. 39.

119. S.A.B.A., K/26, Penzhorn to N.E.C., p. 1001; Emmett to N.E.C., pp. 1065; 1075.

120. S.A.B.A., K/26, Penzhorn to N.E.C., p. 1024.

121. S.A.B.A., K/26, Penzhorn to N.E.C., pp. 965; 1002, He suggested that as a result, farming acitivities were actually expanding during this time.

122. S.A.B.A., K/26, Penzhorn to N.E.C., p. 979.

123. S.A.B.A., K/26, Penzhorn to N.E.C., p. 1022. Stegmann also noted this in evidence to the N.E.C., p. 1048.

124. Interview with Naomi Setshedi (17/6/83), pp. 11 - 13.

125. S.A.B.A., K/26, Chiefs Mogale and Pilane to N.E.C., pp. 1104 - 1106.

126. S.A.B.A., K/26, Emmett to N.E.C., p. 1087.

127. S.A.B.A. K/26, Stegmann to N.E.C., p. 1038.

128. ibid., p. 50. Also S.A.B.A., K/26, Penzhorn to N.E.C., p. 964.

129. ibid., p. 1017.

130. The conditions and circumstances on the neighbouring white farms are dealt with in the next few pages.

131. S.A.B.A., K/26, Penzhorn, Stegmann and Emmett all noted this fact in their evidence to the N.E.C., esp. pp. 1010 - 1019.

132. Breutz, P.L., The Tribes, p. 76.

133. ibid.; S.A.B.A., K/26, Penzhorn to N.E.C., p. 1010.

134. S.A.B.A., K/26, Penzhorn to N.E.C., p. 972.

135. S.A.B.A., K/26, Emmett to N.E.C., p. 1084.

136. S.A.B.A., K/26, Pilane to N.E.C., p. 1111.

137. S.A.B.A., K/26, Mokgatle to N.E.C., pp. 1100 - 03.

138. ibid., pp. 1113 and 1131-2.

139. S.A.B.A., K/26, Stegmann to N.E.C., p. 1033.

140. Mokgatle, N., Autobiography, pp. 102-11.

141. S.A.B.A., K/26, Shongoane to N.E.C., p. 1107.

142. S.A.B.A., K/26, Penzhorn to N.E.C., p. 1016; Stegmann to N.E.C., p. 1048.

143. See the discussion of the Selonskraal dispute in chapter three.

144. S.A.B.A., K/26, Penzhorn to N.E.C., p. 965.

145. ibid., pp.993-1004.

146. Relly, G., 'Social and Economic Change', p. 38.

147. S.A.B.A., K/26, Penzhorn to N.E.C., p. 1000.

148. S.A.B.A., K/26, Emmett to N.E.C., pp. 1067-9; and Stegmann to N.E.C., p. 1040.

149. L.D.B., 2082 R3701, Investigations into farming Conditions (1936-7). Also see S.A.B.A., K/356, Native Farm Labour Commission (1937-8), Correspondence and Evidence at Rustenburg. (December 1937).

150. S.A.B.A., K/26, Emmett to N.E.C., p. 1078.

151. Refer back to p. 78.

152. L.D.B., 2082, R3701, Investigation into Farming Conditions, Report, pp. 25-6. The commission estimated that for a farm to be 'profitably run' it should be at least 2 000 morgan in size. By 1934 only 195 white farms met this requirement.

Number and Size of White owned Farms in 1929 and 1934

Size of Farms		Under 5 morgen	5-20 morgen	21-100 morgen	101-500 morgen	501-1000 morgen	1001-2000 morgen
No. of farms	1929	27	128	441	905	286	218
	1934	18	153	491	1018	336	243

Size of Farms		2001-3000 morgen	3001-5000 morgen	5001-10000 morgen	10001 & over morgen	TOTAL
No. of farms	1929	126	47	13	3	2 194
	1934	132	43	6	4	2 444

153. ibid., pp. 26 - 35; Also JUS., 443, 3/304/28, Indigency and Malaria, Rustenburg district (1927-34).

154. This was to involve the establishment of experimental farming plots, provision of boreholes, establishment of white agricultural demonstrators, provision of educational improvements and the establishment of joint church and state social welfare committees. In addition it was strongly recommended by the Commission that the law preventing relatives from buying land from each other be waived in the area, to facilitate the buying out of the uneconomical small holders. ibid., pp. 35-41.

155. ibid., p. 24.

156. ibid., pp. 24 - 5.

157. This section is drawn from evidence of white farmers to the S.A.B.A., K/356, Native Farm Labour Commission (1937-8), at Rustenburg on 2/12/1937. Altogether 18 different farming cooperatives were represented in the evidence to the Commission. In addition numerous statements were submitted by individual farmers.

158. ibid., pp. 6 - 10; 19.

159. ibid., pp. 5 - 31. In evidence the various farmers claimed to pay their farm workers different amounts. The average wage according to the evidence of white farmers, was between 20/- and 35/- a month. Chiefs Mogale and Selon, however, claimed that the average wages received by their subjects were between 10/- and 30/- a month. One labour tenant, L. Tlhong, stated that he was paid 5/- plus rations each month.

> "The wages as paid to natives on farms are on the whole lower than that of any other mining or commercial industry. Housing is poor, hours of work necessarily longer. Food adequate but lacks variety. Sources of amusement non-existent. The younger natives therefore flock to larger centres." Submitted by Add. N.C., ibid., Questionnaire No. 2.

160. This concern was expressed not only in evidence to the Farm Labour Commission, ibid., pp. 7 - 10; 15 - 18, but was a characteristic appeal of white farmers throughout the period of the 1920s and 1930s. See N.T.S., 2036, 40/280, Native Labour Recruiting, Rustenburg (1922-39). In this case a prospective native labour recruiter' was refused a licence to recruit for the mines on the basis of appeals from white farmers in the area.

161. N.T.S., 2138 247/280 Rustenburg Tropical Natives (1924-38); N.T.S., 2205, 335/280, Labour Supply - Iron, Chrome and Platinum Mines, Rustenburg (1937); S.A.B.A., K/356, Evidence to Farm Labour Commission, pp. 7-10; 11; 15; 18.

162. ibid., pp. 15-18.

163. ibid., pp. 4-11, 17-19.

164. ibid., pp. 5; 17; 6-7. Also see N.T.S., 3718, 715/323, Complaints about Squatters and Kaffir Farming. (1932).

165. ibid., pp. 15; 17.

166. ibid., pp. 7; 9; 19.

167. ibid., p.1.

168. ibid., pp. 8; 10.

169. 41 applications for 'squatters' rights on various farms in the district were reviewed in the N.T.S. correspondence between 1919 and 1935. Of these 32 were applications to 'squat' on white farms. All 32 applications were turned down unless they constituted the renewal of an established arrangement. Even single individuals were refused these rights to 'squat' on lands that were not within a scheduled area, e.g.'s N.T.S., 7134, 619/323. Natives of Kameelhoek 45 (1930); and N.T.S., 7131, 552/323, Natives on Brakvlei (1928). By contrast applications to 'squat' (this was usually on a rent paying basis) on scheduled land were granted in all cases. For example N.T.S., 7134, 619/323, Natives on Groenfontein (1929-39). On this farm within the scheduled area the number of 'squatters' increased from 27 people in 1929 to 14 families in 1935. By 1938 there were 30 families 'squatting' on the farm. Possibly the most significant example is that in N.T.S., 7097, 118/323, Natives on Vlakfontein 892 (1922-26). Here a group of twenty Africans had lived on the farm on a rent paying basis for 18 years when the farm was sold in 1922. They remained on the farm as labour tenants under the new owner for two years until the farm once again changed hands. At that point the twenty occupants put in an application to return to a rent paying basis of occupying the land on the farm. Their application was turned down on the basis that white farmers on other portions of the farm complained that: 1. this was 'against the law'; 2. was a threat to white farmers and their crops; 3. would depreciate the value of the white farms and 4. that 'native' labour would be impossible to procure if rent tenancies were allowed. The twenty Africans were informed that they were not allowed to change their 'squatting' status - that they would be allowed to stay on as labour tenants but not as rent paying tenants and that this depended on the requirements of the new owner.

170. N.T.S., 8840, 97/362 (25), Native Trust and Land Act 1936; Application of Chapter 4, Rustenburg (1938-9).

171. Rogers, H., Native Administration in the Union of South Africa, Second edition, Revised on behalf of the Native Affairs Department by Linington, P.A., Pretoria : Government Printer (1949), p. 152. Chapter 4 related specifically to Africans on white-owned farms and attempted to coordinate the various laws of pre-Union legislatures "... so as to guard against the establishment of uncontrolled native locations ... and to prevent the obnoxious practice of kaffir farming." ibid., p. 152.

172. ibid.

173. ibid., pp. 152-3.

174. Thus for the first 2 years 10s per squatter was charged, for the next two years £1 per head was required, the following 2 years £2, then £3 and from the 10th year onwards £5 per squatter had to be paid by the landowner. ibid., p. 153.

175. ibid.

176. The application of Chapter 4 was not a foregone conclusion, but was only applied to such areas as it may have been extended to by proclamation of the Governor-General ibid., p. 152.

177. N.T.S., 8840, 97/362 (25), Magistrate to S.N.A. (20/6/1939).

178. ibid.

179. ibid.

180. ibid.

181. The reasons for this are not explicit in the Rustenburg District, but it appears that the combined effects of the reliance of white farmers on labour tenants to meet their labour requirements and the dangers of growing over-population in the reserves, made the application of chapter IV both redundant and undesireable.

182. Rogers, H., Native Administration, p. 154. For other areas of the country it has been argued that the active resistance of squatters and rent paying tenants as well as labour tenants actually made it impossible for the state ot apply chapter 4 despite some attempts. See Morris, M.L., 'The Development of Capitalism in South African Agriculture : Class Struggle in the Countryside', Economy and Society, 5 (1976), pp. 292-343; and Hirson, B., 'Rural Revolt in South Africa', Institute of Commonwealth Studies Seminar Paper, No. 8, London : University of London (1977).

183. N.T.S., 7851, 50/336, Famine Relief : Rustenburg (1932 - 42); Stegmann to S.N.C. (Pilansberg) (1.4.1932).

184. ibid.

185. ibid.

186. ibid.

187. The Rustenburg Herald, 'Famine at Rustenburg' (17/12/1933).

188. N.T.S., 7851, 50/336, Add. N.C. to S.N.A. (3/3/33).

189. ibid., Behrens to Add. N.C. (10/3/33).

190. ibid., Behrens to Add. N.C. (25/4/33). He suggested that the actual number was much higher, because many families were refusing to give details as they were suspicious that it was for tax collection purposes.

191. ibid., Add. N.C. to Director Native Agriculture (8/6/33).

192. ibid., This involved both relief in kind as well as the provision of employment in road and dam construction works. Chiefs were also advised to convince their people to sell large numbers of scrub cattle which were 'likely to die at any rate' ibid. Between 1932 and 1935 large numbers of cattle were being sold at cattle sales in Rustenburg. These cattle were generally in a very poor condition and were fetching on average £2 a head. N.T.S., 7219, 96/326, Cattle Sales : Rustenburg (1932-51).

193. See Table II on page 80 above.

194. N.T.S., 7360, 327, Native Shows : Rustenburg.

195. ibid.

196. N.T.S., 9513, 138/400 (31), Soil Erosion : Rustenburg (1935 - 41);
N.T.S., 9533, 138/400 (74), Soil Erosion Works : Rustenburg (1937-8);
N.T.S., 9535, 138/400 (80), Soil Erosion Reports : Rustenburg (1936-9).

197. N.T.S., 3644, 1227/308, Native Trust and Land Act 1936: Rustenburg.

198. Rogers, H., Native Administration, pp. 147-8.
These 'released areas' were based on the recommendations of various land committees such as the Beaumont Committee.

199. ibid., pp. 148-9.

200. ibid., p. 155. In practice, Rogers admitted that much of the 'released' land was already occupied by Africans and was therefore of little value for reallocation. ibid.

201. N.T.S., 3644, 1227/308, Evidence to N.A.D. Commission of Enquiry on the Native Trust and Land Act of 1936, pp. 1-6.

202. ibid., pp. 6-10.

203. ibid., p. 6.

204. ibid., Evidence of Chief Mabe, p. 6.

205. ibid., Evidence of Chief Ramakoka, p. 7.

206. ibid., Evidence of Chiefs, pp. 7-8.

207. ibid., Evidence of Chief Selon, p. 15; Evidence of Chief Mabalane, p. 15.

208. ibid., Evidence of Chief Mogale, p. 10.

209. ibid., Evidence of Chief Mokgatle, p. 8.

210. ibid., pp. 6-17.

211. ibid., Evidence of Chief Mabe, p.8. Also see N.T.S., 3637, 1211/308, Offers of Land for Native settlement, Rustenburg (1936-1961).

212. ibid., p.16.

213. ibid., Commission Report, p.1.

214. ibid., p.3.

215. ibid.

216. ibid., pp. 8-9.

217. ibid., p. 9.

218. ibid., p. 10. Also see N.T.S., 3767, 2320/308 (16), Disposal of Improvements on Trust Farms, Rustenburg (1939-1943).

219. ibid., pp. 11 - 12.

220. ibid., Report Schedule, p. 5.

221. ibid., S.N.A. to N.C. (1/2/38).

222. These figures are drawn from N.T.S., 10219, 10/423/1 to 10/423/14 and N.T.S., 10220, 10/423/15 to 10/423/17. The comparatively small amount of land allocated to the Kwena ba Mogopa was complemented by land given to sectors of the chiefdom outside of the Rustenburg district.

223. N.T.S. 3644, 1227/308, N.A.D. Commission of Enquiry on the Native Trust and Land Act of 1936, Minister of Native Affairs to S.N.A. (10/5/1938). By the 1950s these chiefdoms were still situated in exactly the same position as during the 1930s.

224. ibid., Add. N.C. to Chief N.C. (19/3/38).

225. N.T.S., 20219, 10/423/1. Rehabilitation : Rustenburg (1937-40), Chief N.C. to S.N.A. (10/6/37).

226. ibid.

CHAPTER THREE 'STRUGGLES FORSHADOWED AND STRUGGLES FORGOTTEN' : POLITICAL STRUGGLES IN THE RUSTENBURG DISTRICT IN THE EARLY TWENTIETH CENTURY

In the previous chapter the prevalent material conditions in the various chiefdoms of the Rustenburg district were traced through the century before the 1920s. In the period immediately after the turn of the century conflicts related to these material conditions began to give vent to political and ideological discourses which crystallised more fully in the struggles of the period 1920 - 40. Although sporadic and often individualized, the struggles during the early decades of the century - focussed on chiefly rights to tribute and labour services, control over the acquisition and distribution of land and the legitimacy of chiefly legal authority - anticipated, in both form and content, many of the political and ideological conflicts which were to follow. Not only did these struggles give expression to the material grievances and experiences of African rural dwellers in the district, but they also took distinctive and particular forms of resistance to both white government and 'tribal' authorities. Furthermore, the responses and strategies adopted by both N.A.D. officials and chiefs after the turn of the century also anticipated, to some degree, patterns during the 1920s and 1930s.

Objections to chiefly authority were expressed from a number of quarters. They included conflicts between chiefs and tribal legotlas, complaints about chiefly maladministration and financial mismanagement, objections to chiefs' claims to tribute in the form of migrant earnings and labour services, and challenges to chiefs'

'customary' legal authority and power over the allocation of material resources, especially land. This chapter will briefly describe some of the struggles which manifested themselves within the Rustenburg chiefdoms in the first two decades of the twentieth century, and will draw attention to some of the forms of struggle which were common to the later period.(1) Thereafter, it will turn to an examination of significant aspects of these struggles which were noticeably different from the political and ideological disputes of the 1920s and 1930s. In particular, the struggles of the later period were remarkable for their introverted focus and the absence of any influence of broad or national political organisations. However, in the second decade of the twentieth century there is some evidence which suggests that such organisations may have had some bearing on the struggles within the district.

I. The Ba Po, Kwena ba Mogopa and Fokeng

The forms of political wrangles between chiefs and tribal legotlas which were to become widespread during the 1920s and 1930s, and the challenges to chiefly autocracy in the district, were signalled at least as early as 1908 in the BaPô chiefdom, then under the chieftaincy of Darius Mogale.(2) A number of councillors of the BaPô legotla petitioned the Native Commissioner requesting the removal of Darius from the office of chief. On enquiry, the Native Commissioner established that Mogale was frequently drunk, had repeatedly been guilty of assaulting members of the chiefdom and that the ...

> "... affairs of the tribe are practically at a standstill owing to the strained relations between the chief and his council."(3)

It was further established that the chiefdom was £2 000 in debt on farms mortgaged to the Hermansburg Mission Society, largely as a result of the costs of two legal actions regarding the land, which were lost in the Supreme Court.(4) The chief was unable to account for a large sum of money raised from members of the chiefdom through levies of £10 and £6 for the purpose of offsetting the debt.(5) As a result of these findings the councillors' petition was upheld and Darius Mogale was deposed as chief by the Governor-General acting in his capacity as Paramount Chief under law number 4 of 1885 and was replaced by his cousin Filius Mogale.(6) Darius Mogale was also removed from the district.

At the time of his removal, Darius Mogale had a son, Edward, who was still a minor. It was recognised by the N.A.D. officials that Edward Mogale was the 'legitimate customary heir' to the chieftainship. As a consequence, Filius Mogale was appointed as regent until Edward (who left the district with his father) reached his majority.(7)

In 1917 the issue of the Ba Po chieftaincy again became the source of conflict within the chiefdom. Darius Mogale had clearly not accepted his deposition and requested that he be allowed to return to the Rustenburg district and that he be reinstated as chief.(8) A meeting of the Ba Po was called by the Native Commissioner on the

farm Wolhuterskop in the Rustenburg district in August 1917 at which the question of Darius' reinstatement was discussed.(9) A vote was taken and according to the Native Commissioner, the majority of those present were opposed to Darius' reinstatement, but were in favour of Edward 'taking his place as chief.'(10) The Native Commissioner suggested that the support for Edward was based on a 'loyalty to customary practices irrespective of the consequences for the tribe.'(11) He claimed that the continuation of Filius' rule was in the best interests of the chiefdom and that it would be contrary to 'native law and custom' for Edward to become chief during the lifetime of his father. In conclusion he recommended that Filius Mogale remain acting chief at least until Darius' death.(12)

Throughout the following year Darius continued to request his reinstatement and made several appeals to be allowed to convene a meeting himself in the Rustenburg district.(13) During this period Darius Mogale appears to have lobbied the support of Chief Mamogale of the Kwena ba Mogopa who wrote on his behalf to representatives of the government.(14) Furthermore, he also secured the support of some members of outlying branches of the Ba Po Chiefdom in the Orange Free State and the Southern Transvaal.(15) Representatives of these groups sent a deputation to the Secretary for Native Affairs requesting a joint meeting with the Rustenburg section to discuss Darius' position.(16) The Secretary refused their request asserting that

> "... Filius Mogale who was appointed to act as chief, has pulled the tribe out of the difficulties in which it had become involved and the government cannot lightly decide now to risk probable further division among the people at Wolhuterskop (Rustenburg district) in order to satisfy those ... who are not living on the tribal property."(17)

D.K. Gabashane, a representative of the Southern Transvaal grouping, protested against the Secretary for Native Affairs' ruling on the basis that

> "... although these men had been away from Wolhuterskop for a long time it does not follow that they no longer have interests and vested interests there. A man might be staying in Johannesburg and yet be domiciled in Pretoria, but the fact that he is in Johannesburg does not deprive him of the right to control his home affairs in Pretoria. When the fathers of these men from the Orange Free State went there they did so in order to obtain work among the Boers and earn money to pay for the farms at Wolhuterskop, the tribal headquarters. Therefore, they have a good claim to share in the management of the affairs of the tribe as those living at Wolhuterskop. The same applies to the members of the tribe in the Southern Transvaal."(18)

Over the next two or three years Darius continued to petition the officials of the N.A.D. either on behalf of Edward or himself. He employed legal representatives in order to further pressurize the department.(19) Eventually the Sub-Native Commissioner wrote to Filius Mogale assuring him that no application on behalf of Darius would be entertained, but reminding him that Edward had a legitimate claim to the chieftaincy.(20) On the 17th of March 1921 yet another meeting was convened at Wolhuterskop to canvass the opinion of the members of the chiefdom resident there.(21) Once again a vote was taken and once again the chiefdom voted in favour of

Edward's succession.[22] However, the Sub-Native Commissioner made it clear that he did not support this resolution.

> "I beg to place on record that I will be exceedingly sorry to lose Filius Mogale as chief. In spite of the opposition of a section of the tribe, who were in favour of the reinstatement of Darius and now in favour of the appointment of Edward, he is the most capable and trustworthy Chief I have in the district, and there is not the slightest doubt that he, by his personal efforts and hard work, has saved the tribe from ruin. If it had not been for the promise of the government, at the time of the expulsion of Darius from this district, that Edward would be appointed chief on his reaching his majority, I would most strongly have recommended that in spite of the result of the voting, Filius be appointed as chief, as unless Edward is a very strong and just man, I fear that the tribe will be broken up and cease to exist ..."[23]

The N.A.D. conveniently allowed the issue of the Ba Po chieftaincy to remain in abeyance for the next few years despite the fact that Darius Mogale continued to write letters appealing to be allowed back into the district.[24] In December 1926 a further meeting was held at Wolhuterskop and this time Filius was voted ahead of Edward.[25] However, the N.A.D. effectively carried out the recommendation of the Native Commissioner in 1917 when he had suggested that no action be taken until after Darius' death.[26] The problem was that Darius outlived Filius who only died in May 1936.[27] Even then Edward did not immediately take over the chieftainship as Filius' brother Daniel Mogale was temporarily instated by the N.A.D.[28] It was not until the end of 1936 that Edward finally took over.[29] Three years later, at the age of seventy five, Darius Mogale was finally allowed to return to the Rustenburg district.[30]

Although the dispute in the Ba Po chiefdom continued at least until the end of the 1930s, from as early as 1908 there were discernable features of this struggle which were to characterise the conflicts in many other chiefdoms during the 1920s and 1930s. Although the removal of Darius Mogale as chief was uncharacteristic of the less liberal N.A.D. during the 1920s and 1930s the subsequent defence by the N.A.D. of the acting chief, Filius, foreshadowed the department's later strategy of bolstering chiefly authority whilst maintaining tight control over the rule of 'acceptable' or 'well-behaved' chiefs. The absolute powers of the Governor-General under Law No. 4 of 1885 or the Minister of Native Affairs under the Native Administration Act of 1927, both acting in the capacity of 'Supreme Chief', were to be regularly invoked in the 1920s and 1930s, although seldom for the purpose of deposing a chief. Under these legislative measures, the N.A.D. interpreted customary law in the often varied and manipulative manner (in this case the laws of succession) to meet the exigencies of 'Native Administration' as perceived by officials in the Department.

The actual removal of Darius Mogale in 1908, itself reflected the repressive application of the 'customary' power of the N.A.D. which was later entrenched under the 1927 Native Administration Act. Indeed, this method of solving conflict by removing the leadership of dissenting groups was widely resorted to, and even more frequently threatened, in most of the chiefdoms of the district during the 1920s and 1930s.

The initial opposition of Darius by members of his legotla and by members of the chiefdom was centered on the chief's financial mismanagement, accusations of embezzlement, and claims that he was exploiting members of the Rustenburg chiefdom for his own benefit. These complaints became prolific amongst other chiefdoms during the 1920s and 1930s and reflected the growing challenges to chiefly control over increasingly inaccessible material resources. Some of the sources of later challenges to chiefly control, which crystallized in the 1920s and 1930s, were also anticipated in these early years in the Ba Po chiefdom. Darius Mogale's apparent ability to win the support of members of the outlying branch of the chiefdom in the Orange Free State as well as migrant workers in Johannesburg, hinted at the wide spectrum of material interests which were expressed in the challenge to chiefly control over material resources during the later period.

Amongst the Kwena ba Mogôpa, one of the central sources of conflict during the 1930s was the Chief's control over land in the outlying branches of the Chiefdom at Hebron and Jericho in the Pretoria district. As early as 1913 the Chief J.O.M. Mamogale attempted to remove one of the headmen at Jericho.(31) There was some defiance of Headman Obed More and it appears that the malcontents appealed to Mamogale to remove him. However, the Sub-Native Commissioner of the district suggested that Mamogale was taking advantage of the situation ...

> "... to assert authority over those of his tribe resident in the Hebron and Jericho locations ... in a manner which is highly resented by the Natives concerned. These people recognise him as their Chief, but in name only and are desirous of being controlled by their headman, to whom they look for assistance and advice in tribal and other matters concerning their welfare."(32)

The Sub-Native Commissioner went on to point out that:

> "The Chief wishes to dispose of timber growing on Jericho for his own benefit and upkeep at Bethanie [the headquarters of the Kwena ba Mogôpa-G.S.] and it is known that he has taken this step without consulting the Lekhotla at Jericho. This location being quite bare enough at present without further de-timbering, I have refused to allow any wood to be cut."(33)

The Native Affairs Department attempted to stamp its authority on the situation and Mamogale was warned not to interfere with Headmen 'directly responsible to the Sub-Native Commissioner'(34) The subordination of Chiefs to local officials of the Native Affairs Department (N.A.D.) was one of the fundamental tenets of Chiefly rule during the 1920s and 1930s.

These early developments within the Kwena ba Mogopa chiefdom were in many respects typical of those that ensued during the period which followed, although the entrenchment of this relationship between chiefs and the N.A.D. generally facilitated the bolstering of chiefly authority during the 1920s and 1930s, rather than the undermining of such authority as was the case in the above example. Nonetheless, these struggles and the political and ideological forms which they took, reflected the same controversies over control of material resources which were to become more intensified in the third and fourth decades as access to such resources became increasingly restricted.

It has already been noted that in the period after the Anglo-Boer war, chiefs were frequently manipulating land purchases so as to secure private control over 'communally purchased' land.(35) The example of August Mokgatle of the Fokeng, who bought land with the financial aid of some of his subjects in 1906 and later repaid them so as to be left with the land to himself, is an excellent demonstration of this process.(36) However, it has also been mentioned that other members of the Fokeng chiefdom who were also trying to shed the restraints and responsibilities of communal ownership were less successful. In 1907, the group of Fokeng individuals who claimed exclusive rights to the revenues from minerals on the basis of their private ownership of the land on which the minerals were discovered, lost their claim after a lengthy legal dispute.(37) It was precisely these activities and conflicts over communal as opposed to individual land tenure which began in the first decade of the twentieth century, and which shaped the political and ideological disputes in Fokeng society (and indeed in the district as a whole) during the 1920s and 30s.

The Fokeng example also demonstrates from a very early date the willingness of certain members of the chiefdom to challenge the legal authority of the Chief through resort to the civil courts of 'white South Africa'. 'Native' administration during the early decades of the century was characterized by considerable uncertainty over the legal jurisdiction of Chiefs and Headmen, not least on the part of the N.A.D. administrators in the Transvaal. In particular there was confusion about the exact relationship between the Chiefs' courts and those of the local Native Commissioner or the

Magistrate. Questions as to how to handle appeals against the decisions of Chiefs' courts regularly found their way on to the desk of the Secretary for Native Affairs from Native Commissioners throughout the Western Transvaal.(38) Despite attempts by the Secretary for Justice to clarify these issues (39), the uncertainty of local officials of the N.A.D. continued throughout the period prior to the 1920s and beyond.(40)

For many members of the chiefdoms in the Rustenburg district, this lack of clarity and uniformity of the legal system appeared to offer a loophole for evading the tribal administration of justice. In the relatively literate communities of the Rustenburg district, the early legally orientated challenges to chiefly authority anticipated the frequent resorts to 'white' civil jurisdiction which were a feature of rural black politics in this district during the 1920s and 1930s.

In both form and content, the embryonic struggles of the first two decades of the twentieth century foreshadowed the material and ideological conflicts which crystallized and came to dominate 'tribal life' in the chiefdoms of the Rustenburg district in the years which followed. Various features of the early struggles within the Ba Po, Kwena ba Mogopa and Fokeng chiefdoms have been highlighted here because they proved to be common in many of the Rustenburg chiefdoms in the later period. However in every instance these struggles expressed specific material conditions experienced in each chiefdom and took particular political and ideological forms. It would therefore be misleading to imply any simplistic

uniformity in the struggles within the various chiefdoms. For this reason it is essential to examine the particular conflicts, material conditions and ideological discourses in each chiefdom individually. In the years prior to the 1920s, the struggle within the small Kwena ba Modimosana ba Mmatau chiefdom is one of the best documented and it is to this chiefdom in the years 1918 - 1920 that we now turn our attention.

II The Chief and the 'Mother of the Tribe' : Selonskraal 1918 - 1920

For a number of years prior to 1918, Chief Herman Selon (Maselwane) had been having marital problems. His wife, to whom he was married according to Christian rites, had left him and was living with another member of the Chiefdom by whom she had apparently had a child.(41) The Chief 'retaliated by living with a concubine' with whom he in turn had children. He also instituted proceedings for a divorce on the grounds of adultery, but before the case came to court, he withdrew it, 'as he realised that he had no hope of succeeding owing to being as guilty as she was'.(42)

A number of members of the chiefdom met with the sub-native commissioner about the matter.

> "They affected great indignation at the Chief's action, and stated that if he did not treat his wife with all due respect as the 'Mother of the Tribe', although he did not treat her as his wife, they would not recognise him as their Chief."(43)

Shortly thereafter the sub-native commissioner received complaints from the Chief that his people were not obeying his orders and were ignoring him as Chief.

From this point on, it became clear that Selon's marital problems were merely a pretext for deeper-rooted objections to the chief. The leaders of those who complained to the sub-native commissioner were Marcus Maselwane and Benuele Nong, the former being the Chief's cousin and the latter the secretary of his legotla and headman of the Maithufi clan, second in authority to the chief's clan.(44) When, on the 27th May 1918, the sub-native commissioner convened a meeting at Selonskraal, a number of underlying grievances were revealed. The Chief complained that his subjects had adopted a disobedient and non-cooperative stance, almost ignoring him as chief altogether. He complained that members of the chiefdom were refusing to go to him for a pass and were leaving his stad and going to work in the towns 'illegally'.(45) The chief went on to complain that the leaders of the 'rebel' faction, which the S.N.C. acknowledged to have been a clear majority of the chiefdom, were undermining him and had usurped his authority by setting up a legotla of their own advising people not to recognise Selon as chief.(46) Complaints levelled at the chief during this meeting were that he was 'cruel' and was imposing exorbitant fines on the people which he was keeping for his own use. He was also accused of embezzling large amounts of the taxes levied and forcing people to plough his personal lands without food or payment.(47) It appears that central to these grievances was the 'tax' levied by the chief

on the cash earnings of migrant workers.(48) Finally, Selon was also accused of issuing the rights to open a trading store without first gaining the consent of the people of the chiefdom.(49)

Benuele Nong claimed to have been elected by the people to represent them to the N.A.D. in their grievances about the chief, and was responsible for voicing many of the above objections. In his defense, Chief Maselwane claimed that by custom he was entitled to all the court fines for his own support. He also defended, on the basis of traditional law and custom, his right to have his fields ploughed for him by his subjects. Finally, he insisted that the legotla had been consulted before the issuing of any trading rights.

Nong's final words returned to the issue of the chief's wife:

> "The chief spends the court fines on his concubine and not on his legal wife and children. We cannot forgive the chief, even if he begs us to. A land belonging to the chief's wife has been taken from her and given to his concubine."(50)

The meeting, despite Selon's defenses, unanimously decided to depose the chief and replace him with his fourteen year old son. S.N.C. Griffiths suggested that this was engineered by the chief's cousin, Marcus, who was himself expected to act as regent. On this basis Griffiths suggested that the chief's marital problems were merely being used to stir up popular discontent and that he could see no reason for the chief's deposition. He did, however, suggest that the 'agitators' be threatened with some punishment for their unruliness or even with expulsion from the tribe (this was despite

the fact that Griffiths acknowledged the meeting to have been a representative one).(51)

At the end of July 1918, a number of chiefs from neighbouring chiefdoms in the district went to Selonskraal in order to convene a meeting to try to arbitrate in the dispute. The malcontents, however, refused to speak to these chiefs and the meeting never took place. Thereafter, on the advice of these chiefs, chief Selon 'confessed' to the tribe and asked to be forgiven for anything 'he may have done', but this was adamantly refused.(52) Despite the overwhelming opposition to Selon, Chiefs Mokgatle, Mamogale, Ramakoka, Motzatsi and Tlholwe reported to the S.N.C. that they could find no reason why the chief should be deposed and went on to say:

> "The (malcontent) natives should be warned of the dangerous position in which they could place themselves by defying the chief's orders ... We sincerely hope that our action according to our native law in this case will be acceeded to by and please the hon. Minister for Native Affairs."(53)

The state of unrest continued into the middle of the year 1920 when open conflict again broke out, involving many of the same leaders and the rival legotla. In this instance there was widespread defiance of the chief's authority, a number of people having cultivated lands set aside for 'other' purposes by Selon. Each of the dissidents was fined £5 or a beast by the chief's court, but they defied him to carry out his judgement.(54) Selon appealed to the S.N.C. to support him and although S.N.C. Griffiths was quite clear that ...

> "... it goes without saying that it is an old established native custom that the chief points out where the gardens shall be and anyone making a garden elsewhere is liable to punishment by the chief ..."(55),

he was still uncertain of how to respond. He continued:

> "In view of the fact that the power of chiefs to hear cases and inflict fines, is questioned owing to their not having been properly appointed, I am at a loss what advice to give him."(56)

When in 1918 S.N.C. Griffiths had suggested that the 'ringleaders' in opposition to the chief be removed from the tribal land, his suggestion had been vetoed by both the N.C. and the Secretary for Native Affairs. On this occasion it was suggested to S.N.C. Griffiths that he renew this threat and that if the dissidents ventured on to the prohibited land or attempted to clear the land for cultivation again, they were to be taken by the chief to the magistrate's court and charged with tresspass, damage to tribal property, or some such criminal charge.(57) It appears that the renewed threat of removal was taken seriously as there is no further evidence of co-ordinated opposition to Selon's authority thereafter. Ultimately the chief's authority was reinforced, and the central importance of this to the N.A.D. officials was made quite explicit by the Secretary of Native Affairs himself:

> "Whether the chief was appointed by Executive Council under law 4, 1885 or not seems immaterial in the matter. He is a chief recognised by us (vide Blue Books) even if he be not a judicial officer ... by Native Law he has the right of assigning lands and the farm [Grootwagendrift 743 - G.S.] is registered to the minister in trust for him and not for the tribe ..."(58)

The distribution and allocation of lands on this farm was of vital concern to members of the chiefdom. It was noted in the previous chapter that the farm Grootwagendrift was the only farm owned by the Kwena ba Modimosana ba Mmatau. It was completely surrounded by white-owned farms and the entire area, including the tribal land, lay outside of the area scheduled as 'native reserve land' by the 1913 Land Act. The chiefdom was the second smallest in the Rustenburg district but was one of the most densely populated, having twice as many inhabitants in proportion to available land as any of the larger chiefdoms.(59) The limited size of the chiefdom's population made it more difficult to generate funds for the sake of land purchase and after the passing of the 1913 Land Act there was no land available for purchase anywhere near the existing tribal ground. As a result, this small chiefdom, most desperately in need of expanded access to land, was least able to secure any.

The land shortage amongst the Kwena ba Modimosana ba Mmatau resulted in a higher degree of labour-migrancy earlier in the century than was the case in many other chiefdoms of the district. Whereas the relatively discretionary migrancy of members of some chiefdoms allowed many people to avoid the harsh conditions and poor wages on the Rand mines well into the 1940s, a number of migrants from Selonskraal were employed on the gold mines of the Rand, even as early as 1918.(60)

The dispute over the chieftaincy at Selonskraal reflects these material conditions. The central concern with the chief's right to tribute in the form of migrant earnings indicates a substantial

degree of migrant participation in the dispute, as does the rejection of the chief's role as a 'pass officer'. The effects of severe land shortage and the consequent dependency on migrant earnings, were evidenced in the increasing pressure brought to bear on the chief's 'customary' rights to dues accruing therefrom, and attempts to appropriate a greater proportion of these earnings within the family or on an individual basis. The Secretary of Native Affairs was particularly aware of this feature of the conflict at Selonskraal, and in his last correspondence on the subject he expressed this:

> "It would be interesting to know whether the repudiation of Selon's authority, which is analogous to certain happenings in Pretoria locations, is symptomatic of a growth of individualism or is merely a tribal squabble."(61)

The severe shortage of arable land within the chiefdom was also clearly the motivation behind the challenge to the chief's allocation of land for purposes other than cultivation. Once again, Selon attempted to defend his position on the basis of his customary right to do so. The N.A.D. in turn supported Selon's actions on the basis of the need to maintain the system of communal pasturage.(62) Yet if the N.A.D. officials were concerned at the potential breakdown of 'communalism' in the face of growing 'individualism', then their own actions can be seen as somewhat contradictory. In asserting that it was the chief's customary right to allocate land for different purposes, it was also pointed out that the land was 'registered in trust for the chief and not the tribe'.(63) Selon as an individual was regarded as the controller

of the resources of the chiefdom. 'Customary' chiefly control was effectively manipulated and disfigured as the system of communal tenure was subject to Selon's individual authority and control over resources.

The farm Grootwagendrift had originally been purchased in 1882 by the Hermannsburg Lutheran Mission for the Chiefdom and was paid off through tribal levies.(64) It was only transferred to the chief's name after 1913. It seems, therefore, that the N.A.D. officials attempting to resolve the dispute at Selonskraal were choosing in this instance to interpret the 'letter' rather than the 'spirit' of the law.

In many instances the opposition to Selon was fostered by resentment of his individual accumulation of wealth at the expense of members of the chiefdom. Objections to his personal appropriation of court fines and the exorbitant fines levied, were amongst the central problems raised with his chieftaincy. Once again Selon insisted that it was his customary right to appropriate these funds for the sake of his personal upkeep.(65) Similarly Selon ardently defended his right to demand free labour services from members of the chiefdom for the cultivation of his personal fields. In every instance the N.A.D. supported Selon's appeal to 'traditional' law and custom.

Those in opposition to the chief were, however, equally determined in their appeal to customary institutions and traditional practices. Their opposition to Selon's authority was itself rooted

in their own interpretations of the role and functions of tribal institutions and specifically the chieftaincy. They established a rival legotla, identical in form to the pre-existing one. The opposition also focused around a long-standing succession dispute. Finally, popular support was secured through an ideological appeal to a symbol of customary morality - the chief's wife, 'the mother of the tribe'.

Ultimately the political struggles at Selonskraal between 1918 and 1920 gave expression to the prevalent material grievances of the chiefdom. However, these struggles were fought out at an ideological level through conflicting interpretations of the constitution of 'tribal law and custom' in much the same manner as that suggested by Comaroff and Roberts in their anthropological work.(66) Competing traditional symbols were thrown up by both Selon and the opposition in an attempt to legitimise their standing within the chiefdom and ratify their demands. In the final instance, the superior authority of the N.A.D. and its role as arbitrator held out, with the result that it was white officials of government who had the final say in defining legitimate customary laws and practices, and ultimately in dictating the sources of political and material control.

However, if the particular organizational forms of ideological and political resistance at Selonskraal during 1918 - 1920 were in any way typical of struggles which were to follow in the Rustenburg district, then there were also other characteristics of the same

time period which were conspicuous by their absence in the years which followed. I refer here especially to the arguable (but by no means proven) influence of 'national political organisations' such as the Transvaal Native Congress (T.N.C.).

III Rumours of Revolt, 1917-20

One characteristic common to the disputes in the Rustenburg chiefdoms in the 1920s and 1930s, was the lack of any apparent connection between these struggles and the activities of any broad political organisations. Indeed, the influence of any such organisations appears to have been negligible, with the exception of the period 1917 - 1920, during which there was a flurry of rumours of open, organised revolt. This fact is of some importance in interpreting the nature of 'peasant' political conciousness in the Rustenburg district and demands some explanation.

In July 1917 the T.N.C. held a meeting in Phokeng in the Rustenburg district(67). Two police informers, Paul Mokgatle and Pitsoe Magano attended the meeting and submitted reports to their police contact P.C.C. Freddy Hicks. Both informers noted the presence of a number of the chiefs from the district including August Mokgatle, Diederick Mogale, Herman Selon, Chief Mosume of Pella Location, J.O.M. Mamogale and Abraham Mamogale of Hebron as well as representatives of Chiefs Mabe and Motzatzi. Both informers also noted the presence of Sol Plaatje and S.M. Magato, at the time president of the South African National Native Congress (S.A.N.N.C.).(68) The main focus of discussion at this meeting

was the 1913 Land Act and the voicing of objections to the unfair division of the land. From this point the two informers' reports diverge in emphasis and tone. Paul Mokgatle claimed that some clandestine plans were being made. He quoted Chief Mogale:

> "... if we cannot get our ground back we must be ready to die, not I alone but all the chiefs must hear the word - life or death ... I hope there is no informer amongst us. We must not let any outsider know."(69)

He apparently went on to call for the collection of funds 'so that when trouble comes we will be ready'(70)

This clandestine element was completely absent from Magano's report on the meeting. He claimed that the central objection to the Land Act and to segregation was its effect in undermining the chiefs. J.O.M. Mamogale was quoted as saying:

> "Our chiefs are to be chiefs no more, we will not be able to act for ourselves except through the Commissioner, all our rights are being taken away and we are being left with nothing at all"(71)

Magano went on to relate that certain complaints were made at the meeting about funds having been collected to send a chief to England, but that these funds had disappeared. Another meeting was called for Sunday, August 7th at Hamanskraal.

On this occasion only Paul Mokgatle reported on the meeting. He estimated between three and five hundred people to have been in attendance including a number of additional chiefs from various districts in the Transvaal.(72) Once again Mokgatle's report was conspiratorial:

> "Botomana Manoshi the interpreter at the N.A.D. office spoke: 'We will fight against the government against the man who wears government buttons and has got a big stomach and we will cut his belly open and take the fat out of him for the hardship he has imposed upon us' (cheers) and out came the money and the meeting quickly dispersed, he made it clear that the money was for war purposes."(73)

The following day a further meeting was convened at Leeuwkraal, in the Pilansberg district, and according to Paul Mokgatle was attended by over 900 people. Most of the chiefs from the Rustenburg district were in attendence as well as chiefs from Pretoria, Sekhukhuneland and the Pilansberg, Pietersburg and Waterberg districts.(74) In a heavily rhetorical opening address, Magato tiraded against the Land Act and the involvement of thousands of Africans in the first World War. He ended by saying:

> "You chiefs must know that the English government did not make these laws but that big-stomached man - the boer ... We have no rifles and nothing ready, we must all understand every man in South Africa who is black, if we unite or work together our dust is enough to suffocate them all to death (loud cheering and enthusiasm)"(75)

Paul Mokgatle concluded that 'the whole talk of the meeting was war.'(76)

Police officer Hicks of the Rustenburg police was certainly convinced by Mokgatle's reports and noted that his informant was the secretary of Chief August Mokgatle's legotla and was therefore clearly well-informed. In his report Hicks stated clearly that

> "... the natives are talking war and saying if the boers can rebel they can also rebel ... There can be no doubt at all that the natives mean to rise and murder the white people of the country."(77)

Hicks' fears were soon reinforced by further informers reports that local Africans were purchasing and secreting guns and ammunition. The weapons were reportedly being sold at 'a Jew's store' at the Saulspoort location in the Pilansberg district.(78) Even more alarming in the context of the boer rebellion during the first world war, were reports that boer rebels along with German Lutheran missionaries were assisting the African population in securing arms.

> "... certain well known rebels and Germans are co-operating with the Natives and guaranteeing ARMS, AMMUNITION AND FIGHTING MEN. One Nicolaas Johannes Rudolf Roets of Palmietfontein in this District, a well-known agitator and rebel, Field Cornet and who was captured under arms in the late rebellion is one of the principal men who is assisting the native Chiefs stir up rebellion."(79)

It was reported to Hicks that Ernest Penzhorn, the German missionary at Phokeng, was 'praying and preaching' for the success of Germany in the war. It was noted that Penzhorn and chief August Mokgatle were 'very intimate'.(80)

Hicks saw the gravest danger as being the white farms in the district and the employers of 'native labour'. In view of the T.N.C.'s opposition to the 1913 Land Act, Hicks claimed that it was the white landowners who would soon be subject to physical attack.(81) His views were soon being articulated by white farmers themselves and rumours of a 'native-boer rebel-German'

alliance spread through the district. Within a month of Hicks' last quoted report, at least twelve different farmers wrote urgent letters to either the N.A.D., the S.A.P. or even the Prime Minister requesting protection, usually in the form of arms or a greater police presence in the area. Three such letters were written by Mr. D. Allam of the Rustenburg Orange Export Company. Allam, a self-appointed guardian of all that was proper and British, warned against the influence in the district of 'Native lawyers' from Johannesburg. He went on to reinforce all of P.C.C. Hicks' worst fears:

> "The insolent bearing of the natives in the last week or two is very noticeable, and the number of strange natives about is also noticeable ... I saw a truck of arms and ammunition going through to Rustenburg under escort on Monday, and I suppose these are for issue in case of trouble; but with the Huns and Rebels we have in the district the arms are liable to get into the wrong hands in a good many cases. In my opinion if the government was at once to make a clearance of all these missionaries they would nip any movement in the bud, for they are the root of all the agitation and under the cloak of education and religion carry on their propaganda without check. One thing is certain, if trouble does come, we out here will not get much chance of putting up a fight"(82)

The extent of the paranoia of white farmers in the district was reflected in a letter written by another prominent Rustenburg farmer to the Prime Minister, General Botha.

> "I have used my influence and kept the people from trekking from their farms. I have told the people and assured them that I have written to the government and we await to hear from the government, which if unfavourable the whole people around me are going to trek to Rustenburg."(83)

These alarmist reports soon found their way into the commercial press.(84) Despite the fact that from as early as September, the Native Commissioner for Rustenburg had stated that reports of unrest in the district were completely exaggerated,(85) it was felt that the South African Police should take some action. The 'Jew's shop' was raided for arms and it was discovered that not only was the proprietor licensed to sell firearms, but that he was only in possession of one revolver and one shotgun.(86) Chief Mamogale was interviewed by none other than the Prime Minister and reportedly laughed at rumours of an uprising. The following day articles appeared in Ons Vaderland and the Rand Daily Mail writing off the unrest as rumours of dubious origin.(87)

Further police investigation appears to have borne out this view:

> "... the rumours appear to have originated from hearsay or on the other hand have been engineered by the National Party people ... as they are the only persons in the neighbourhood amongst whom uneasiness and unrest exists."(88)

In his November report the Rustenburg Native Commissioner categorically stated that all 'native unrest rumours' investigated 'proved to emanate from whites'.(89) Despite this, both Freddy Hicks and his informant Paul Mokgatle continued well into 1918 to submit reports that the chiefs of the district, in cahoots with T.N.C. leaders, were planning an armed rebellion.(90) The Native Commissioner described Hicks' latest statements as 'ludicrous' and suggested that his informants, who were being paid for the

information they supplied, were merely feeding him the information which they saw him 'to be feeling after.'(91)

The influence of the T.N.C. in the Rustenburg district was at best sporadic and haphazard. It cannot be disputed that chiefs in the district were in regular contact with T.N.C. officials for at least the year 1917, but thereafter there is little evidence to support any ongoing relationship. Available evidence strongly suggests that the implementation of the 1913 Land Act formed the basis for a tenuous and short-lived alliance between T.N.C. leaders and land-hungry chiefs in the Rustenburg district, who were concerned at the threat to their power to purchase and distribute land.

It is difficult to identify any single reason for the subsequent rather abrupt decline of the influence of the T.N.C. over local chiefs. It may have been the consequence of the radicalization of the T.N.C. on the Rand as described by Bonner.(92) Beinart found this to be the case in Pondoland after the first World War. He suggests that the radicalization of the organisation opened gaps between Congress and the Chiefs - even those who sat on the Council of Chiefs.(93) By 1919 the gaps between the T.N.C. and chiefs in the Rustenburg district were fairly wide. At the very time when the T.N.C. was supporting a campaign against passes, Chiefs Mamogale and Mokgatle urged the government to enforce the pass laws and arrest the ringleaders of the 'pass strike'.(94)

It is ironic that at the end of 1919, at the point at which Bonner identifies renewed T.N.C. overtures being made to chiefs,(95) its relationship with the Rustenburg chiefs was in its final phase of decline. This should be seen in the light of the fact that it was also during this period that the anti-chieftaincy sentiments in various of the Rustenburg Chiefdoms were beginning to gain momentum and find organisational expression. It is abundantly clear that the T.N.C. never acquired a substantial degree of popular support in the district and as the localized political struggles of the 1920s and 1930s played themselves out, Congress and particularly the Council of Chiefs, remained entirely peripheral to them. Naboth Mokgatle, who grew up in Phokeng during the 1920s and who was later to become a card-carrying member of the African National Congress, never encountered the T.N.C. during these years and presented it as a phenomenon of the towns.(96) Ernest Penzhorn presented a similar if somewhat more prejudiced perspective.

> "Daardie 'Native Organisations' en 'Native Societies' het almal ontstaan op die dorps lokasies en dit is die dinge wat baie moeilikhede veroorsaak. Mens kry dit nie hier op die platteland nie; hulle dra mooi klere en hulle denk hulle self te goed om onder die naturelle in die stad te kan leef."(97)

When questioned about the state of race relations in the Rustenburg district in 1930, Penzhorn was even more explicit.

> "The mutual understanding between the white people and the black people is good ... I may say that the chiefs here will not have anything to do with these Native Congresses, and these native meetings, of which we hear such a lot. When they come here they send them away, and they take up the attitude that these agitators are trying to

> spoil our people. The I.C.U. will never come here. The chiefs would not allow them for one minute. The Chiefs do not want them, and they simply kick them out. They had meetings of Native Congresses here on one or two occasions, congresses of people coming from the towns. The natives in these areas at one time used to give them money, but they could never account for that money, and the result is that they do not want them now. As a matter of fact, our people do not see the use of that kind of thing."(98)

The comparative experience of the I.C.U. in the Western Transvaal, referred to here by Penzhorn, is also of some interest. There is no indication of any penetration of the I.C.U. into the region before 1928.(99) However, Bradford suggests that from 1928 the I.C.U. won some support in the South-Western Transvaal (particularly from rural wage labourers) through its 'reformist trade unionism' and its focus on working conditions rather than land issues.(100) This, she claims, was the consequence of these South-Western Transvaal communities having by this time effectively lost the battle to maintain 'quasi-peasant relationships to the means of production'.(101) In the reserves in the Rustenburg district during this period, this battle was barely beginning and the resilient peasant economies in most chiefdoms enabled the majority of rural producers to avoid wage labour on white farms. As a result, therefore, of its failure to articulate the local material concerns of Tswana peasants in the area, the I.C.U. never gained any significant foothold in the Rustenburg district.

Bradford makes the important observation that in many areas the I.C.U. was unable to combat the political influence of 'tribalism'(102) and this factor appears to be of some

significance in the Rustenburg district where many of the chiefdoms were characterised by resilient and cohesive tribal political structures at the centre of rural political relationships. However, rather than merely being subject to the 'influence of tribalism' the political struggles of the Rustenburg district are better analysed as 'introverted' or internally focused and localized. Far from being focused on exploitation by white farmers, or national oppression by white government, these struggles were rooted in the challenge to material control consequent upon particlar forms of local 'tribal' political control. It was the consequence of national political organisations' failure to articulate these local concerns within .their political discourses, which best explains their negligible influence in the district during the 1920s and '30s, and this appears to be borne out by the I.C.U. experience.

The feared rebellions of 1918 - 1920 never materialized. White farmers in the district were never threatened by insurrection in this part of the country which, when first colonized, was called Rustenburg due to the fact that the 'Kaffirs' of the area were unusually peaceful, allowing the Boers a more restful existence on their lands.(103) The very absence of influence or popularity of any national political organisation is one of the remarkable features of the history of this district between 1920 and 1940.

If the 'rumours of revolt' in the area proved to be no more than a storm in a tea-cup, then the eruption of violence and bloodshed at Bulhoek in 1920 certainly fed directly into the worst nightmares of Native Administrators, police officials and white farmers in the

Transvaal. The millenarian influence of 'one of these fantastic religions which have been imported from America'[104] provided a basis for continued paranoia, at least during the early 1920s.[105]

In the years and struggles which followed, N.A.D. officials were regularly warning of 'another Bulhoek' and threats of 'impending bloodbaths'. Foremost in their minds were often the ostensible threats to the white community in the district. However, like the rumours of revolt and the rumours of hidden arms caches during the earlier period, these threats proved to be unfounded. As a rule, the struggles in the district stopped short of violence at least until 1941, and where there were sporadic outbursts these were strictly contained within the chiefdoms and were directed at immediate local enemies. In fact, the only traceable evidence of gunshots being fired at police in the entire period under review, proved to be a case of mistaken identity.[106]

The dispute at Selonskraal, rather than any of the 'rumours of revolt', was typical of the struggles which were to develop in the chiefdoms of the district in the years which followed. Varying material concerns were to find expression through the ideological manipulation and transformation of resilient forms of 'traditional' law and custom as rural producers fought against the control of chiefs over dwindling material resources. As these chiefs were increasingly incorporated within the bureaucratic structures of the capitalist state during this era of segregation, the refutation of their authority tended to spill over into often unintended challenges to the authority of the state administration.

CHAPTER THREE FOOTNOTES

1. The struggles in the Kwena ba Mogopa and Fokeng chiefdoms will only be mentioned briefly in this chapter as they are extensively dealt with in Chapters 5 and 4 respectively.

2. N.T.S., 318, 16/55, Darius Mogale (1908-1913).

3. N.T.S., 318, 16/55, Native Commissioner's report on the conduct of Darius Mogale, July 1908.

4. ibid.

5. ibid.

6. N.T.S., 318, 16/55, Prime Minister's Office, minute No. 1471, (3/12/1908).

7. N.T.S., 319, 16/55 (II), Administration of the Ba Po Tribe, SNC to SNA (18/3/1921).

8. N.T.S., 319, 16/55 (II), NC to SNA (11/8/1917).

9. ibid.

10. ibid.

11. ibid.

12. ibid.

13. N.T.S., 319, 16/55 (II), SNC to SNA (10/12/1917); and Application for the Reinstatement of Darius Mogale as Chief of the Ba Po Tribe (13/8/1918).

14. N.T.S., 319, 16/55 (II), Mamogale to Governor-General (13/5/1918); and Mamogale to SNA (7/9/1918).

15. N.T.S., 319, 16/55 (II), Application for the Reinstatement of Darius Mogale as Chief of the Ba Po Tribe (13/8/1918).

16. ibid., p. 2.

17. ibid., pp. 3 - 4.

18. ibid., p. 4.

19. N.T.S., 319, 16/55 (II), A.S. Benson to Minister of Native Affairs (12/4/1920); and C.F. Clur to Minister of Native Affairs (27/11/1920).

20. N.T.S., 319, 16/55 (II), SNC to Filius Mogale (20/8/1920).

21. N.T.S., 319, 16/55 (II), SNC to SNA (18/3/1921).

22. ibid.

23. ibid. In support of his viewpoint the sub-Native Commissioner also forwarded to the Secretary of Native Affairs a letter from several white farmers in the district who requested that Filius be kept on as Chief. N.T.S., 319, 16/55 (II), W.M. Swart, H.J.C. Jordt and 87 others to Rustenburg Magistrate (undated).

24. N.T.S., 319, 16/55 (II), SNC to SNA (14/4/1922); and Secretary of Native Affairs Commission to SNA (11/8/1926).

25. N.T.S., 319, 16/55 (II), Minutes of Meeting at Wolhuterskop (1/12/1926).

26. N.T.S., 319, 16/55 (II), NC to SNA (11/8/1917).

27. N.T.S., 319, 16/55 (I), Application of Edward Mogale, Add. NC to SNA (17/5/1936).

28. ibid.

29. N.T.S., 319, 16/55 (I), NC to SNA (15/12/1936).

30. N.T.S., 319, 16/55 (I), Chief NC to SNA (23/10/1939).

31. N.T.S., 329, 49/55, SNC Hamanskraal to SNA (8/10/1913).

32. N.T.S., 329, 49/55, SNC Hamanskraal to SNA (15/5/1913).

33. ibid.

34. N.T.S., 329, 49/55 SNA to SNC Rustenburg (3/11/1913).

35. Also see Relly, G. 'Social and Economic Change amongst the Tswana in the Western Transvaal 1900 - 1930', unpublished M.A. Thesis, School of African and Oriental Studies, University of London (1978), p. 28.

36. S.N.A., 62, 424/06, NC to SNA (22/2/1906).

37. Breutz, P.L. The Tribes of the Rustenburg and Pilansberg Districts, Ethnological Publications, No. 28, Pretoria : Department of Native Affairs (1953), p. 66. See S.N.A., 83, 884/08, Paulus Khunow versus August Mokgatle and Modisakeng Petlele versus August Mokgatle. Ownership of farms Turffontein and Klipfontein (1908).

38. N.T.S., 313, 9/55, NC Marico District to SNA 22/5/1911;

JUS., 116, 3/647/11, SNC to SNA (18/2/1914);

N.T.S., 313, 9/55, Acting NC Zeerust to SNA (26/4/1915).
These letters posed questions about the legal period within which appeals could be made to the Native Commisioner's Courts against decisions in the Chiefs' courts. They also queried the means by which chiefs' decisions could be enforced when the person in default refused to accept the sentence imposed on them and enquired as to the role of the NC's courts in this regard.

39. In October 1914 the Secretary for Justice attempted to explain the basis upon which a chief's decision could be enforced:

> "If the legislature gives a native chief jurisdiction to adjudicate on questions submitted to him, according to native custom, that implies that such coercive measures as are the custom of the tribe shall be adopted; in other words that the judgement of the chief shall be carried out in such manner as it has been custom in the tribe to carry out the judgements of the chief. On occasion it may be advisable for the Sub-Commissioner to render assistance, or as a last resort the Supreme Court might issue process in aid, but the general rule would be as above stated."

JUS., 116, 3/647/11, Sec. for Jus. to SNA (7/10/1914).

40. In 1917, completely ignorant of the role of the Native Commissioners court as a source of appeal against decisions from the Chief's Court, the SNC Rustenburg wrote to the Secretary for Native Affairs saying:

"I take it that an appeal lies with the Supreme Court only from a Chief's judgement."

N.T.S., 313, 9/55, SNC to SNA (30/10/1917). See also ibid., attorney Landsberg (Volksrust) to SNA (13/3/1919).

41. N.T.S., 355, 312/55, SNC to SNA (1/5/1918).

42. ibid.

43. N.T.S., 355, 312/55, SNC to SNA (22/5/1918).

44. ibid. Also Breutz, P.L., The Tribes, p. 116.

45. N.T.S., 355, 312/55, SNC to SNA (29/5/1918).

46. ibid.

47. ibid.

48. ibid. Breutz., P.L., The Tribes, demonstrates that tribute in the form of a proportion of migrant earnings was still being paid in this chiefdom as late as the 1950s.

49. N.T.S., 355, 312/55, SNC to SNA (29/5/1918).

50. ibid.

51. ibid.

52. N.T.S., 355, 312/55, Chiefs Mokgatle, Mamogale, Ramakoka, Moshume and Tlholwe to SNC (2/8/1918).

53. ibid.

54. N.T.S., 355, 312/55, SNC - SNA (2/6/1920).

55. ibid.

56. ibid.

57. N.T.S., 355, 312/55, SNA - SNC (24/7/1920).

58. ibid.

59. Breutz, P.L., The Tribes, pp. 107-8.

60. ibid., pp. 120-1.

61. N.T.S., 355, 312/55, SNA to SNC (24/7/1920).

62. N.T.S., 355, 312/55, SNC - SNA (2/6/1920); SNA - SNC (24/7/1920).

63. As quoted above, N.T.S., 355, 312/55, SNA - SNC (24/7/1920).

64. Breutz, P.L., The Tribes, p. 113.

65. The question of chiefs appropriating court fines became a contentious issue during the mid-1920s. The N.A.D. eventually ruled that these fines should be paid into tribal trust accounts and that in view of the chiefs being salaried officials they ought to subsist without these additional funds. Unless chiefs requested additional finances for

specific purposes, they were to receive no other remuneration other than was voluntarily offered to them. Many of the problems remained as most fines continued to be paid in kind rather than in cash. N.T.S., 331, 59/55, Maintenance of Tribal Chiefs (1927-46).

66. Comaroff, J.L., and Roberts, S., Rules and Processes : The Cultural Logic of Dispute in an African Context, Chicago : University of Chicago Press (1981) See Chapter One, pp. 27 - 30; 45 - 6.

67. Bonner, P.L., 'The Transvaal Native Congress 1917 - 20 : the Radicalization of the Black Petty Bourgeoisie on the Rand', African Studies Institute Seminar Paper (March 1980), p. 21. Later published in Marks, S., and Rathbone, R., (eds.) Industrialization and Social Change in South Africa, 1870 - 1930, London : Longman (1982).

68. N.T.S., 7661, 123/332 Native Unrest, Rustenburg District (1917-24); and N.T.S., 7661, 123/332 Paul Mokgatle sworn statement (1/8/1917). Pitsoe Magano sworn statement (4/8/1917).

69. Paul Mokgatle, ibid.

70. ibid.

71. N.T.S., 7661, 123/332, Pitsoe Magano sworn statement (4/8/1917).

72. N.T.S., 7661, 123/332, Paul Mokgatle sworn statement (9/8/1917).

73. ibid

74. ibid

75. ibid

76. ibid

77. N.T.S., 7661, 123/332, Report F. Hicks (P.C.C., S.A.P.) (10/8/1917).

78. N.T.S., 7661, 123/332, Phineas Okulo sworn statement (30/8/1917); and N.T.S., 7661, 123/332, Det. Head Constable Rustenburg to Deputy Commissoner C.I.D. Tvl. Division (29/9/1917).

79. N.T.S., 7661, 123/332, P.C.C. Hicks Report (13/9/1917).

80. N.T.S., 7661, 123/332, Phineas Okulo sworn statement (30/8/1917).

81. N.T.S., 7661, 123/332, P.C.C. Hicks Report (4/10/1917).

82. N.T.S., 7661, 123/332, D. Allam to H. Moss C.I.D., Jhb. (17/10/1917). Allam struck up quite a regular correspondence with Moss, writing to him on the 26th and the 29th of the same month. The second letter contained an expose of several prominent German residents in Rustenburg and amongst other things suggested that the 'Masonic Hotel ... a rendezvous for Huns and Hollander's' should be closed down, with or without evidence that it was the focal point of a disloyal conspiracy. His final letter was mainly an attack on Rev. Behrens, a Lutheran missionary at Bethanie. All this correspondence found in N.T.S., 7661, 123/332.

83. N.T.S., 7661, 123/332, Jacob Stephanus Malan former Bulskop(21) Rustenburg, sworn statement (6/11/1917).

84. The Sunday Times (28/10/1917), ran an article from which the following is extracted:

> "That they wonder if all is well in the Rustenburg district, where German agents have been particularly busy of late.
> That in spite of Police vigilance, arms appear constantly to be changing hands, and some of the hands closing upon a rifle are said to be coloured.
> That the weed of revolt must be grasped quickly, firmly and pulled up for all time."

85. N.T.S., 7661, 123/332, SNA to G.G. (7/9/1917).

86. N.T.S., 7661, 123/332, Det. Brandon to Dist. Commandant (1/11/1917).

87. 'Unrest in the Transvaal', Ons Vaderland (15/11/1917); 'Idle Rumours Denied by Natives Themselves', Rand Daily Mail (15/11/1917).

88. N.T.S., 7661, 123/332, Lance Corpl. A. Cockerell to Dist. Commandant, S.A.P. Rustenburg (6/12/1917).

89. N.T.S., 7661, 123/332, NC to SNA (24/12/1917).

90. N.T.S., 7661, 123/332, P.C.C. Hicks to Dist. Commandant S.A.P. (27/2/1918); P.C.C. Hicks to Dist. Commandant S.A.P. (9/3/1918).

91. N.T.S., 7661, 123/332, NC to SNA (21/3/1918). I have not been able to find any evidence which suggests that Paul Mokgatle had any political ambitions of his own.

92. Bonner, P.L., 'Transvaal Native Congress'.

93. Beinart, W., The Political Economy of Pondoland 1860 - 1930, Cambridge (1982), pp. 241 - 3.

94. N.T.S., 216, 389/19/473, Telegram Mamogale to SNA (4/4/1919); and N.T.S., 216, 389/19/473, SNC to SNA Re Native Strike on Rand (15/4/1919).

95. Bonner, P.L. 'Transvaal Native Congress', pp. 38 - 9.

96. Mokgatle, N., Autobiography of an Unknown South African, London : Hurst and Co. (1971), pp. 160 - 1.

97. S.A.B.A. K/26 Penzhorn to N.E.C., pp. 993 - 4.

98. ibid., p. 1012.

99. Bradford, H., 'The ICU and the Transvaal Rural Popular Classes in the 1920s', Paper Presented to the History Workshop, University of the Witwatersrand (February 1981), p.7. This paper was subsequently published as Bradford, H., ''A Taste of Freedom' : Capitalist Development and Response to the I.C.U. in the Transvaal Countryside', in Bozzoli, B., (ed.) Town and Countryside in the Transvaal, Johannesburg : Ravan Press (1983), pp. 128 - 150. Bradford points out that by this time the I.C.U. was already beginning to collapse and had shifted its ideological discourse from a 'radicalized nationalist agrarian politics' to a more 'liberal, reformist' position. ibid., pp. 7 - 10; 21 - 23.

100. ibid., pp. 23 - 6. Bradford suggests that this was in contrast to the appeal of the I.C.U. to a 'peasant class consciousness' in the Eastern Transvaal during 1926 - 7. ibid., pp. 21 - 2.

101. ibid., p. 27.

102. ibid., p. 28. For other accounts of the I.C.U. see Bonner, P.L., 'The Decline and Fall of the I.C.U.', in Webster, E., (ed.) Essays in South African Labour History, Johannesburg : Raven Press (1978); and Wickens, P., The Industrial and Commercial Workers Union of Africa, Cape Town : Oxford University Press (1978).

103. Breutz., P.L., The Tribes, p. 16.

104. The Star, 'Curtain Falls on Israelite Drama', 3/12/1921.

105. The role of separatist churches in the Rustenburg district is examined in chapter six below. It is strongly argued there that any fears of militant millenarianism were equally unfounded and alarmist.

106. This incident took place at Motzatzistad in the Tlokwa ba ga Bogatsu chiefdom in 1923. See JUS., 371, 3/1005/23, Native Disturbance at Motzatzistad (1923 - 25); and N.T.S., 7660, 19/332, Disturbance at Motzatzistad (1923).

The disturbances at Motzatzistad are notable, if for no other reason, than because of their violent tendencies. The dispute in 1923 involved a relatively small group of 40 - 50 dissidents who were disputing the authority of the chief Motzatzi Tlolwe. On the twenty first of July, after a vicious fight and several injuries, armed with sticks and assegais, the 'rebels' besieged the chief and members of his legotla in the chief's house. The Rustenburg police were called out to put an end to the disturbance and after being shot at by the chief's son who mistook them for the malcontents, they arrested twenty one 'rebel ringleaders' who were pointed out by the chief's followers. They also confiscated 'all sticks and knives'. N.T.S., 7660, 19/332, Dist. Commandant to Deputy Commissioner, Tvl. division of the S.A.P. (23/7/1923).

The dispute centred around the absence of a certain individual in the chiefdom from his 'working regiment' responsible for doing some work for the chief. Other workers objected and were intending to flog the man involved but decided to fine him instead. The Chief, however, insisted that the fine be repaid on the basis that only he and the legotla could impose such a fine. A few days later the same thing happened and the circumstances were repeated. The Chief then arranged a council meeting and ordered the entire regiment to receive a flogging. The melee described above then ensued. It is finally of some interest to note the response of District Commandant on the issue:

"I consider the action of the police in going out is perfectly justified; it showed that in the event of a disturbance a number of men can be quickly on the spot, and will have a good effect on the native mind. In this instance, it no doubt put a stop to what would have developed into a serious rupture between the parties and consequent further disturbances." ibid.

CHAPTER FOUR STRUGGLES IN THE FOKENG CHIEFDOM - THE CRISIS OF CONTROL

The most central and best documented struggle which took place in the Rustenburg district during the 1920s was the challenge to Fokeng chiefly control between 1921 and 1926.(1) This struggle was initially rooted in the challenge to chief August Mokgatle's control over the allocation of landed resources, and was characterised by a high degree of factional manouvering. However, the struggle gained an ideological momentum of its own which provided the basis for a popular alliance in opposition to the chief. The Fokeng struggle is important in that it provides not only a great deal of insight into the relationship between material interests and culturally rooted ideological struggles in the peasant communities of the district, but also illuminates the 'crisis of control' which these challenges to chiefly authority presented to the South African state in the era of increasingly dominant segregationalist ideology.

I Land Buying and Factionalism Amongst the Fokeng

In examining the Fokeng chiefdom, it is immediately striking that its material conditions contrasted sharply with those experienced by the community at Selonskraal. The latter chiefdom has been described as one of the most impoverished of the district whilst the Fokeng have been identified as one of the 'wealthiest' tribes, both in the Rustenburg district and in the country as a whole. However, the political and ideological forms of resistance amongst the Fokeng

had much in common with those examined in the Selonskraal episode discussed in the preceding chapter. The methods and strategies employed in opposing chiefly authority were similar, although the struggles at Phokeng were more intense and enduring.

The dispute amongst the Fokeng came to the fore at approximately the same time as resistance to Chief Selon was dissipating. In a letter from the 'Bafokeng tribe and legotla' to the Sub-Native Commissioner at Rustenburg in June 1921, complaints were brought against chief August Mokgatle for breaking a 'tribal law' which imposed the boycott of a store and a threshing mill on a neighbouring white-owned farm.(2) It was also alleged that on two occasions the chief had refused to appear before the legotla when called on to account for his actions. As a result the legotla had apparently taken a decision to depose the chief, whom they also accused of being continually drunk.(3) Describing the situation the Sub-Native Commissioner noted that:

> "Feeling is running very high against the Chief August Mokgatle among his people ..."(4)

The origins of this conflict were rooted in attempts to purchase land, specifically the farm Kookfontein 337, which adjoined Bierfontein 432, on which was situated Phokeng, August Mokgatle's capital. The Fokeng were negotiating with the white owner of the farm, a man by the name of J. Kruger, who asked for £27 000 for the sale. The Fokeng negotiators ruled this price out of the question and Kruger lowered his price to £23 000. This was still considered exorbitant and certain of the Fokeng were prepared to offer no more

than £8 000. The chief, however, made an offer of £15 000, but at that point Kruger refused to negotiate any further. He indicated that the land would no longer be available to the Fokeng for grazing or watering their cattle or for collecting wood. He warned against trespassing and gave the Fokeng people eight days to remove themselves altogether from his land. After this cattle still trespassed on Kruger's land and on two occasions were impounded and only released at a cost of £12.(5)

It was in response to this that the question arose of a possible boycott of two stores on Kruger's farm, and a mill owned by a Mr. Seichel, who appears to have had a part ownership of the farm Kookfontein. The boycott was decided on with the consent of the Chief, despite his defense afterwards that he had tried to discourage the move on the basis that it interfered with the liberty of others and would incur the disapproval of the government.(6) It was agreed by the legotla that no threshing would be done at Seichel's mill and no purchases made from the stores on Kruger's land. In addition it was agreed that anyone who broke these regulations would be subject to a fine of £5. The Chief, with the approval of his legotla, signed a document to this effect.(7) Because of the prohibitive costs of transport for milling in Rustenburg itself, a regulated charge was also set for those with the capacity to fulfill this service. In contravention of this regulation, August Mokgatle's son, Reuben, was found to be overcharging. He was fined £2 and paid his fine.(8) However, on the 4th of June 1921 and then again on the 11th of that month, August Mokgatle, chief of the Fokeng, broke the boycott to which he

himself had been signatory, by threshing his grain at Seichel's mill. He also made a purchase to the value of £5 at one of the two stores covered by the boycott.(9)

There had already been considerable tension between the chief and his legotla during the negotiations over the farm Kookfontein. Members of the chiefdom opposed to August, claimed that he had 'taken the white man's side' over the negotiations and suggested that he would drive the chiefdom to bankruptcy.(10) Members of August's legotla claimed that because the farm was to be purchased communally through a tribal levy, the chief was unconcerned about the purchase price and was ignoring the needs and wishes of the majority of the chiefdom, many of whom would not themselves benefit from the land thus purchased.(11) Levi Kotane, one of the opposition grouping claimed that the chief had said:

> "... 'if you won't pay £15 000 then you don't want to buy the farm, and if you don't want to buy the farm then I am going to break the boycott.' He did and broke his own resolution."(12)

The conflict over Kookfontein was not the first such instance of dissension over land purchase. In 1919, the chief and four others attempted to purchase the farm Welbekend 738 privately. Initially the Secretary of Native Affairs (SNA) refused to approve the deed of sale unless the farm was transferred to the Minister of Native Affairs 'in trust for the tribe.'(13) August Mokgatle then proposed that the farm be transferred to the Mininster of Native Affairs, but that the names of the purchasers appear on the title

deed.[14] Permission was once again refused, and the SNA made it clear that private purchase would not be considered.

> "The policy of the government being to carry out the intention of section 22 of the Native Affairs Administration Bill of 1917, there is little likelihood of the application being approved in its present form unless special circumstances can be advanced in its favour. The tribe will probably be well advised therefore, to give further consideration to the tribal purchase of the farm ..."

The chief then proposed a tribal levy of £5 per head in order to pay for the farm. The size of the farm was 2 705 morgen, and a number of the chiefdom objected as they claimed that such a levy would work out to much more money than the farm was worth. More than 200 members of the chiefdom then appealed directly to the SNA through their attorney in an attempt to buy the land on their own behalf without the chief.[16] Many of these people already had cattle posts established on Welbekend and some had even cultivated land on the farm. Furthermore, the company owning the land was threatening to press charges for trespassing and to claim damages of up to £200 against each of these individuals. The prospective group of purchasers was described as being "well able to pay the purchase price, being wealthy in cattle, and all connected by family ties"[17] The farm Welbekend was situated within a 'scheduled native area' recommended by the Beaumont Commission.

At this stage August Mokgatle claimed that 'he and the tribe' were definitely intending to purchase the farm, but would not purchase it if it was to benefit the 200 independent buyers as he claimed they

were 'rebels' and 'openly refused to recognise him as their chief'. The SNC confirmed that the 200

> "... are complicated in the complaint against the Chief and are styled as rebels by the Chief. Several councillors, headmen, and followers are in favour of the purchase of the farm Welbekend, but the chief being vindictive will not approve of a tribal purchase ... "(18)

By this stage it was clear that the conflict over the purchase of both Kookfontein and Welbekend were closely interelated, and opposition to the chief was coming from the same quarters in both cases. Yet suddenly, in January 1922, the sale of Welbekend was resolved and it was announced that the farm was transferred to the Minister of Native Affairs "in trust for chief August Mokgatle and the Bafokeng tribe" at a cost of £6 086.(19) Although the SNA considered this price to be "fair and reasonable", the £2:5:0 per morgen paid for the farm was almost double the £1:15 per morgan originally asked.(20) The deed of sale stipulated that £2 000 be paid within 3 months and the balance in 4 annual instalments with 6% interest.(21) By September 1923 it was clear that the tribal finances necessary to pay off the farm were simply not forthcoming, and after a series of extensions, the tribe was threatened with legal proceedings.(22) It was suggested by the SNC that other tribally owned farms be mortgaged in order to raise funds and stave off legal proceedings. He went on to note that:

> "The tribe is numerous and rich but full of dissension which is paralysing their business affairs."(23)

Similar problems were experienced in raising money for other farms including Kookfontein and the farms Diepkuil and Boschfontein. This was due to the dissenting section's refusal to contribute to tribal finances including tribal levies, quit rents, fencing costs and a variety of other forms of payment. This campaign of resistance will be detailed below. As far as SNA Godley was concerned, it was clear that solving the problems of the tribe's liabilities, was synonomous with the need to resolve the dissension within the chiefdom.(24)

The dispute over land purchase in the Fokeng chiefdom lay at the root of the dissension within the community in the years which followed. It was ultimately a conflict over access to, and control over, resources. The method of purchase of both Kookfontein and Welbekend reflect the chief's attempt to maintain control over land distribution as well to secure the private benefits which could be derived for himself and certain members of the chiefdom. Hence, when the chief's attempt to purchase Welbekend privately failed, the farm was bought 'tribally'. However, this method of tribal purchase was still subject to manipulation by the chief who, due to his authority to distribute land, was able to allocate it independently. Thus communal purchase often did not amount to communal access to these crucial resources.

In outlining the grievances against chief Mokgatle, one of the leaders of the dissenting section claimed that the so-called rebels had been denied any rights to land on Welbekend.(25) He went on to point out that when the farm was purchased, the dissenting section had offered to contribute to the purchase price but were not

allowed to do so and that they were kept in the dark about the tribal liabilities with respect to the purchase. He complained that in spite of this, if the chief were sued in the Supreme Court, the tribally owned land on which they resided was liable to be confiscated in lieu of payment.(26) It was in this context, that the dissenting section of the chiefdom claimed they had no responsibility for the liabilities for land and fencing from which they derived no benefit.(27)

In this instance land was 'tribally owned' only in name - in practice access to such land was exclusive. The grouping opposed to August's rule were themselves eager to gain exclusive rights to land. In the opinion of the SNC, this grouping was relatively affluent and had themselves attempted to secure collective ownership of Welbekend in order to parcel out privately controlled shares.(28)

Whilst the challenge to chiefly authority in Selonskraal was largely the product of a desperate bid to maintain continued access to increasingly dwindling resources, in Phokeng this was rather the result of competing interests in the privatisation of land. In refusing to contribute to any tribal asset from which they did not privately benefit, the dissenting section was explicitly shirking any 'traditionally' defined communal responsibilities.

II Politics and Economics : The Forms of Resistance to August Mokgatle

Opposition to August Mokgatle found organisational and institutional expression in the legotla of Phokeng. With one exception, all the members of the legotla were opposed to the chief, and it was these legotla members who provided the bulk of the leadership of the dissenting section within the chiefdom. It was through the legitimacy of the legotla that a challenge was posed to the chief's political power, and hence to his authority to administer and control material resources within the chiefdom. Both prior to and after the Chief's breach of the trading boycott, he was accused of an habitual abuse of chiefly authority.(29)

Complaints against the chief were varied and extensive. Apart from the conflict over land purchase the chief was also accused of inefficient financial management and failure to account for certain sums of money.

> "We would like to know from the chief what has become of all the tribal monies? Has he kept an account of the tribal receipts and payments? and if so is he prepared to show them to his legotla?"(30)

Leaders of the dissenting section accused him of misappropriating funds such as those accruing from site rents for trading stores, and challenged the chief's tendency to grant trading concessions without consulting the legotla.(31)

> "We do not know what becomes of the site rents, we never see them. There are three blacksmith shops and we do not know on whose authority they are there. These are grievances."(32)

Even more explicitly the chief was accused of misappropriating money collected for fencing. Complaints in this regard dated back to 1905, when two levies of £3 and £1 were collected for this purpose.(33) Again in 1911 it was alleged that the chief embezzled over £100 left over from a levy once fencing costs had been covered.(34) This issue became a source of conflict in 1922 when members of the dissenting section were called on to pay for fencing on three of the farms they occupied, because the chief had refused to do so. 'Rebel' leaders were particularly angry that the receipt for the fencing costs was passed to the chief rather than to the legotla members who had paid.(35)

Legotla members also complained that the chief had contracted an engineer to build a dam on the farm Boschfontein at an exorbitant cost, despite the assertion by members of the chiefdom living on the farm that they could do the construction themselves. When residents on the farm refused to contribute to a levy for this purpose, the chief placed an armed guard on the drinking water supply at Boschfontein ...

> "... with the result that little children who had done him no wrong were crying for water ..."(36)

The legotla members also claimed that the chief was abusing the authority to issue passes, using it as a mechanism of control, and in his own factional interests.

> "We have been badly treated in regard to the pass-laws, and some of our section have had to suffer prosecution by reason that the chief has refused to issue passes for no other reason but that we do not belong to his section."(37)

There was also considerable discontent over August's continued claim to tribute, especially the 10/- claimed from migrants returning from labour centres.(38) This, along with the salary he was paid, and certain quit-rents which he was alleged to have used for his own purposes, was offered as evidence that the chief was corrupt and that he was using his office to advance his personal interests.(39) To cap everything, the malcontents added that the chief was widely regarded as a drunkard, was personally responsible for a number of bad debts, and was prone to using foul and abusive language as well as flogging his subjects.(40)

> "He is not a fit and proper person to be our chief and yet we are told that we must be satisfied with him and act loyally under him and obey all his commands."(41)

The central issue raised by the malcontents was the autrocratic nature of Mokgatle's rule and the extent to which it undermined their own roles and duties within the chiefdom.

> "The legotla of Phokeng (the Royal Stad) which is the name by which we prefer to be known, feel that our administrative functions in all tribal affairs have been over-ridden, disregarded and totally ignored by our Chief, who has taken upon himself the autocratic control of the tribe, and who now refuses to listen to us or seek our advice. This is a state of affairs which we, in all honesty of purpose, feel that we cannot submit to and this grievance is the first of the many that must be removed."(42)

The legotla members went on to assure the Native Commissioner that it was their committed intention at all times to "submit to properly constituted and lawful authority", and that they had no desire to.

> "... rebel against the laws of the land ... We abhor all forms of lawlessness and therefore resent the word 'rebel' which has so indiscriminately been applied to our Section ..."(43)

An additional ingredient in the dispute was the fact that the majority of the dissident leaders were closely related to the chief and were descendants of royal blood. This is of particular significance as the splits within the chiefdom appear to have followed the lines of division which emerged in succession dispute amongst the Fokeng in the early 1890's.(44) One of the leaders of the opposition faction was in fact Bartolomia Monnafela Mokgatle, an uncle to August and one of the original malcontents removed from Phokeng during the disupute in the 1890's.(45) Two of the other leading voices of opposition, David and Simon Mokgatle, were both first cousins to Chief August and although they had not personally been involved in the earlier succession dispute, they were regarded as sympathizers with the original malcontents.(46)

Many of the members of the chiefdom who remained loyal to August Mokgatle, claimed that the grievances of the 'rebels' were either fabricated or irrelevant, and suggested that the entire conflict was simply the re-emergence of the old succession dispute, and that David Mokgatle merely wanted to take over the reigns of government

himself.(47) The outspoken loyalists, most of whom were headmen from outside of Phokeng, defended August's actions in breaking the boycott of Seichel's mill. They defended his customary right to tribute from wage- earners returning to Phokeng, and his traditional rights to labour duties such as ploughing and wood collection. Failure to comply with these duties was described by one of the loyalists as the result of the 'rebels' having 'lost all respect'.(48) August's appropriation of funds was also regarded as a legitimate customary practise and even his right to quit-rents was accepted as a replacement for the £5 that men returning from the diamond mines of Kimberley used to pay to the chief - a practice no longer in operation.(49) August Mokgatle himself defended his customary right to money collected from store site rents, on the basis that this was the practice in his father's time. August denied very little,(50) explaining each grievance away by claiming almost complete immunity on the basis of his customary and traditional privileges.(51) On similar grounds, the 'loyalists' unanimously denied that the legotla had the right either to fine or depose the chief and added that it was not even entitled to instruct him to appear before it.

August Mokgatle was completely intransigent. Despite the fact that almost his entire legotla was opposed to him and that the vast majority of Phokeng was loyal to the disaffected legotla,(52) he refused point blank to pay the £5 fine imposed on him or even to meet with the legotla. In response, the legotla raised the fine to £500. When the dissident section's lawyer and the Rustenburg magistrate went out to Phokeng in an attempt to mediate in the

dispute, Mokgatle simply refused to discuss the matters arising with the so-called rebels saying:

> "Go to the devil, I'm not going to buy my chieftainship."(53)

The lawyer, a Mr. A.S. Benson, claimed that the people of Phokeng 'wanted peace', but that a combination of August's intransigence and a lack of diplomacy on the part of the Native Affairs Department officials, had exacerbated rather than ameliorated the situation.(54) By contrast, the magistrate claimed that the 'rebels' were not interested in peace and he defended the chief by asserting that it was the exclusive right of the government to appoint and depose chiefs. He said that August was recognised by government as having jurisdiction under Section 4 of law 4 1885 (TVL) and therefore, if the 'rebels' did not like the chief it was suggested that it was they, rather than August, who should be removed from Phokeng. In this the magistrate received the support of the SNA.(55)

The suggestion that the 'rebels' be removed stood, and information was collated on the 'ringleaders', but no further action was taken for the next ten months. In October 1922, the SNC again warned of the danger of 'serious trouble' if the department did not intervene more firmly.(56) Departmental action was, however, delayed once again pending the outcome of a court case being brought against the members of legotla.

At this stage, the legotla was still meeting and performing its usual functions without either the attendance or consent of the chief. This was held to be illegal by the Native Affairs Department, and after collecting evidence that the legotla was still trying cases and fining the guilty parties, the Department brought the evidence before the attorney general claiming that as the legotla was no longer recognised by the government, it had no right to exercise civil or criminal jurisdiction.(57) The Attorney-General, however, suggested that no offense had been committed, as the man fined had voluntarily submitted to the authority of the legotla.(58) This decision was of particular significance as it served to enhance the prestige and standing of the 'rebel' legotla within the community. Nor was the signficance of the decision lost on the Native Commissioner.

> "I do not wish to challenge the Attorney-General's decision, but if it is correct, I do wish to say and to say very emphatically that the fundamental principles of native administration throughout the union are undermined and all attempts to exercise a system of tribal discipline or control must collapse."(59)

At this point it was clear that the officials of the Native Affairs Department had already decided to uphold Chief August Mokgatle's authority. While he had little or no support in Phokeng itself, it was claimed that he had almost full support of the headman in the outlying districts of the chiefdom. The Native Commissioner claimed that it was out of the question to depose Mokgatle without it resulting in 'a great deal of consternation' outside of Phokeng.(60) Thus, despite acknowledging that the chief was

'weak, lacked control and was prone to drinking too much', it was still through August Mokgatle that the Native Affairs Department hoped to administer and exercise control over the Fokeng community. The standing of the 'rebel' legotla was seen not only to be undermining Mokgatle, but the Native Affairs Department officials as well.(61)

The Department immediately hardened its attitude to the disaffected section and became more threatening in its approach. In March 1923 the SNA wrote:

> "Under these circumstances the tribal authority will be supported, and if agitation and fermented dissension continue, those responsible will be charged under the authority of the Paramount Chief and will be liable for the consequences of their action ... If necessary, remedies can be ensured by Departmental action, but the exercise of his (David Mokgatle's - G.S.) self-constituted authority will surely and shortly result in his expulsion from the location ... In peaceful agricultural districts such as Rustenburg, the Government will not tolerate a disquieting atmosphere and a menacing attitude among the Native tribes who are permitted as a matter of grace to continue to squat in tribal conditions. Anarchy is a certain means of ensuring unpleasant consequences not only to David and his friends, but to the entire tribe."(62)

On August 27, 1923 the SNC called a pitso in yet another attempt to resolve the dispute. It was attended by approximately 800 people and was addressed by Chief Mamogale from the neighbouring Kwena ba Mogopa chiefdom. Mamogale appealed for unity and suggested that the fine of £500 imposed on the chief be reduced to £5, and that August pay the reduced amount. The meeting was described as rowdy and disinterested and the Native Commissioner gave the tribe one week to

make peace, failing which Departmental action was threatened.(63) No noticeable changes took place and the malcontents reportedly continued to defy the chief's authority. The SNC then advised Chief Mokgatle to call another pitso in order to depose the legotla. This Mokgatle did on September 6, 1923. The deposed legotla members walked out of the meeting and took their followers with them, after which August Mokgatle nominated a new tribal legotla.(64)

The deposition of the legotla had no effect. The old legotla continued to meet and conduct tribal business despite the fact that they were now flying directly in the face of what was officially considered to be the 'properly constituted tribal authority'. On September 14, 1923 the 'rebels' held a meeting and ignored an order by the chief to disperse.(65) Eight of the dissident 'ringleaders' were then arrested and charged with contravening Section 4 of the recently promulgated location regulations.

These developments provided the Native Affairs Department with an important opportunity to reassert its control over the situation. The Transvaal Location Orders had been promulgated on May 7, 1923. Section 4 of the Orders stated that:

> "No public gathering nor assembly shall be convened or held in any location without permission of the Chief and council."(66)

However, this was not the only clause which had direct relevance to the disturbances in Phokeng. In fact the Location orders could have been tailor-made to meet the challenges posed by the dissent in the Rustenburg district.

Section 2 of the Orders vested in the Native Commissioner the power to represent the Minister of Native Affairs in his capacity as 'Supreme Chief of all the natives'.

Section 13 Structured and formalised the accountability of chiefs to the Native Commissioner.

Section 3 Stipulated that residential rights in any 'location' were subject to the observation of Native law and custom, as defined by Law No. 4 of 1885;

Sections 5 and 6 gave chiefs and headmen the authority to regulate the presence of non-residents in the 'location' and empowered them to order any non-resident to leave the 'location'.

Sections 7, 8 and 14 effectively made contempt of the chiefs court a punishable offence. This had not previously been established as a rule in African customary law.

Section 9 prohibited any trade in a 'location' without the permission of both the chief and the council;

Section 15 made all the offences under the Location Orders punishable by a fine of up to £20, except when section 12 was applied.

Section 12 had the most far-reaching implications. It stated that:

> "The commissioner may, at the instance of the chief and the council, after due enquiry, recommend the removal from a location of any resident thereof whose continued presence can be shown to be undesirable on account either of the wilful breach of these orders, trespass against recognised native law and custom, sustained contumacy to tribal discipline and control, or such conduct as is contemplated by V.R.R. Article 1066 of 31 August 1895."(67)

The trial of the eight Fokeng ringleaders was the first application of these Location Orders. Seven of the eight were acquitted as there was no proof that any of them had convened the meeting. The eighth member of the group, Kefas Magano, was convicted and took the case to the Appellate division.(68) Magano's appeal was upheld and the Location Orders were ruled by the Supreme Court to be 'ultra vires'.(69)

The finding of the Supreme Court was a signficant blow, both to the Native Affairs Department and to the cause of August Mokgatle. The dissenting section of the tribe had demonstrated its willingness to challenge the powers of both the chief and the department in the civil courts of 'white' South Africa. Through employment of skilled lawyers such as Benson and Strange (who fought Magano's case in the Supreme Court), the legotla leaders effectively curbed the ability of either the chief or the department to act arbitrarily. Anyway, whilst August Mokgatle may have officially exercised civil jurisdication in the chiefdom, he simply did not have the power or means to execute his decisions in Phokeng - a dilemma experienced by numerous chiefs in other parts of the Transvaal in this period.(70)

As a result of intensifying opposition to August Mokgatle, it is therefore not surprising that he appealed to the government to come to his aid and to re-establish unity within the chiefdom. The terms in which he did this reflected his trepidation at having to deal with the legal expertise of the opposition:

> "The rebels have their attorney, and now we wish ours to act for us."(71)

The Location Orders were designed to strengthen the hand of the Native Affairs administration. However, the Supreme Court's decision to declare the Orders '<u>ultra vires</u>', served quite the contrary end, and severely curtailed the department's ability to offer immediate assistance to the chief. This was acknowledged by the SNC:

> "I must confess to a degree of sympathy with Native chiefs under present-day conditions, though admittedly a number of them are weak and dissolute. Their old-time powers and authority have to a great degree been circumscribed by the government. On the one hand tribal traditions and discipline have gradually broken down with the advance of European methods and civilisation, while on the other hand the government has provided no adequate substitute for these agencies."(72)

He went on to say:

> "Something must be done to restore the prestige of the Department which has undoubtedly suffered in the eyes of these people owing to the failure of the action taken under the Location Regulatons."(73)

The question of 'departmental prestige' was felt to be of particular importance in view of the extent of dissension within other chiefdoms of the Rustenburg District. At this stage the SNA

suggested that there was a degree of conflict in almost every chiefdom in the district. He went on to assert that it was necessary for the department to take positive action, and suggested his own direct involvement through a commission of enquiry and the eventual removal of the malcontents from the area.(74)

In the month which followed the Supreme Court's decision the 'rebel' faction was more active than ever. They staged regular demonstrations and disrupted a pitso called by the chief to organise the collection of quit-rents. At the pitso the dissenting section publicly refused to pay, suggesting that chief August Mokgatle should pay them himself with all the money he received from site rents.(75) This was soon followed by a near-hysterical appeal from the chief who claimed that the 'rebels' were on the verge of open war and claiming that his life was in danger.

> "David Mokgatle wanted to follow me into the house and kill me but my people caught hold of him. He was standing in the doorway of my house. They had chased me from my big office."(76)

On March 10th 1924, SNA Godley embarked on a departmental enquiry into events at Phokeng. By this stage, the dispute also began to find its way into the commercial press. Two days after Godley went to Phokeng, an article appeared in The Star which noted the decision of the Supreme Court to declare the Location Order 'ultra vires' and quoted the entire dealings over the farm Kookfontein. The article went on to say:

> "The whole question of the authority of native chiefs is at stake ... Matters are very serious and other tribes with grievances are watching the progress of events. Two Rustenburg magistrates, the Native Commissioner and the sub-Native commissioner have at different times been instructed by the government to hold enquiries, each being held with abortive results ... it is no exaggeration to say that on this enquiry (of SNA Godley - G.S.) the thought not only of the Natives of Bafokeng, but of every native within a hundred miles is set ... Not only the authority of the Chief is questioned, but the authority of the Native Affairs Department, of the government itself, is being strained to its utmost; the loyalty of the natives to the decrees of the department is in jeopardy ..."(77)

Godley's report after the commission of enquiry included a schedule documenting the activities of the 9 leaders of the dissenting section. It also provided a list of the names of 36 headmen which had supposedly been appointed by the 'rebel' leaders. The report provided details regarding the collection of dues by the dissidents, including the imposition of fines by the 'rebel' legotla and the imposition of a levy of 50/-s. per head upon their supporters to provide funds for the prosecution of a campaign against August Mokgatle.(78) Finally, it also documented the obstruction of payments by the 'rebels' noting

(1) the refusal of 'rebels' to contribute towards quit-rents due in respect of 'tribally owned' property;

(2) the refusal of the 'rebel section' as a body to pay their tax and

(3) the refusal of the 'rebel section' to contribute towards 'tribal' liabilities in respect of land purchase.(79)

It was clear from the outset what Godley's findings were to be. Even in his references to the different factions, his bias in favour of the chief was clear. He referred to the dissenting grouping as 'rebels' or as 'rebel headmen' whilst referring to the loyalists as 'responsible hereditary headmen'(80) Godley also refused to meet the 'rebel' section with their attorneys Benson and Strange, and was only prepared to report back to these lawyers.(81) It is worth documenting Godley's findings in some detail.(82)

Firstly, Godley disputed the right of the legotla to fine or even charge the chief for breaking the boycott and suggested that this was contrary to the 'custom of the tribe'. He went on to suggest that the chief had been 'ill-advised' in supporting the boycott in the first place and had acted wisely in eventually breaking the boycott, especially since the outlying sections of the chiefdom had not approved it.

Godley also justified the chief's appropriation of certain funds as his 'customary right'. He said that as old customs of tribute broke down, so modified customs came into effect to replace them. Godley did, however, note

> "the desirability of dealing with the tribal finances on a different footing so as to protect the Chief from charges such as those being investigated and also to satisfy the requirements of the more advanced and educated members of the tribe."(83)

He went on to say, however, that

> "... the chief must be exonerated from blame for continuing a system which obtained in his father's time, and which met with the approval of a large majority of the tribal headmen and their followers."(84)

Godley further rejected the allegations that the chief had singled out members of the opposition to pay for or to provide labour to effect fencing repairs, suggesting that such labour requirements were in keeping with 'tribal custom' and that the farms involved were almost entirely occupied by members of the 'opposition party.'

> "In these matters the chief was merely carrying out a system which conforms to the customs and usages of the tribe and which, moreover, appears to be a very sensible one. No blame attaches to him under these charges."(85)

Fourthly, on the question of the chief's general conduct, it was acknowledged by Godley that August was 'addicted to drink' and that he was a 'weak and useless individual'. This was overlooked, however, as he still carried the support of the majority of the chiefdom outside of Phokeng itself. On the issue of abusive language, Godley simply stated that this had not been confined to the chief but had been freely indulged in by the opposition party. Lastly, Godley barely commented on the central issue of control over land, but merely exonerated the chief of any responsibility for alledged encroachments on tribal territory.

Godley's conclusions indicated his failure even to vaguely understand the material grievances underlying the conflict. He relegated the causes of dissent almost entirely to two slightly

contradictory ideological influences. Firstly, he suggested that the dissension was largely the product of the re-emergence of the old succession dispute. He said:

> "I am definitely of the opinion that the present trouble is really to a great extent a continuation of the old dissension which had been rankling all these years and has only been waiting for a suitable opportunity to manifest itself. This opportunity occurred over the boycott affair."(86)

This view he based on three factors: firstly, the 'unanimous view of the responsible headmen' that the opposition was merely concerned with replacing August as chief, with one of their own members; Secondly, an 'unguarded statement' by one of the opposition spokespeople, who agreed that the present dissension dated back to 'older troubles'; and finally, the fact that the opposition was unearthing grievances that went back over twenty five years.(87) The second contributing influence which Godley identified was that of the "general Native Congress spirit, which pervades a section of the more enlightened members of the tribe".(88) In regard to this latter issue, Godley had already noted with concern the fact that:

> "the storm-centres ... (in the Rustenburg district - G.S.) ... are locations situate at no great distance from the Rand, whereas these inter-tribal difficulties are not in evidence in the more remote locations where tribal traditions and customs still prevail."(89)

The issues identified by Godley were those which found their way into the commercial press. Hence in October 1924 The Star reported that:

> "It is a remarkable fact that the rebel section contains several members of the 'blood royal'. As a section they claim to be the original Bafokeng, and they contend that the 'loyalist' section of the tribe is another race."(90)

Likewise, slightly earlier in the month an article on 'Rustenburg Natives' noted that:

> "The Native tribes in the Rustenburg district are known to be on the verge of disintegration because of their proximity to the Rand and the influence of democratic ideas emanating from there ..."(91)

Godley's solutions to the situation were quite simple. He asserted that 'the authority of the chief and the customs of the tribe' (needless to say, as he understood them) had to be respected. Any further failure to do so on the part of the 'rebels' should, Godley suggested, result in their immediate removal from tribal property under an order of the Supreme Chief.(92) Godley's conclusions were duly presented to all concerned. However, the resistance campaign of the malcontents continued to gain momentum. By May 1924, through continued refusal to pay quitrents, fencing costs, taxes and tribal levies, the financial administration of the chiefdom was effectively brought to a standstill. Bad debts on land purchased amounted to more than £7 000 and there was a deficit of over £250 in taxes not paid. The dissenting section were blocking everything, from the extension of mineral and prospecting contracts to the allocation of trading rights.(93) The 'rebel' <u>legotla</u> also continued to hold meetings in defiance of the chief and continued to conduct trials.

In frustration the SNA acknowledged that although it was desirable forcibly to remove the malcontents from the tribal property, their 'passive resistance' did not provide sufficient tangible evidence to warrant the issuing of a removal order by the Governor-General. He suggested that only once the 'rebels' had been proved to be criminally responsible for 'refusing to meet their obligations', would it be possible to remove them.(94) Within just over a month, 31 members of the opposition grouping were arrested, charged and convicted for failure to pay tax. One of the 31 was 'rebel' leader David Mokgatle.(95) Less than two weeks later, Lucas Mokgatle, another central figure in the opposition to the chief, was convicted for assaulting one of August's court messengers.(96) This was the first and last instance of violence resulting in bloodshed to take place in Phokeng.

The conviction of one of the rebel leaders on a criminal charge provided the opportunity that N.A.D. officials had been waiting for. On October 3, 1924, on the basis of this conviction, a removal order was issued by the Governor-General in his capacity as Supreme Chief. Nine 'rebel' leaders were singled out and ordered to remove from any property belonging to the Fokeng Chiefdom. By this stage, there had already been a total of six departmental enquiries into the events in Phokeng, numerous threats of impending violence, the 'always imminent' danger of 'another Bulhoek'(97) and finally a warning that the 23 000 white residents in the district could become the target of attack.(98) None of these dangers materialised and it does not appear that there was any real basis for fearing that they might.

The conflict in Phokeng remained very much a localised and internally focussed affair. The focal point of opposition was the chieftaincy which represented the source of political power and control within the politics of the chiefdom. Even the effective discrediting of the Native Affairs Department was less by design than it was the unintended consequence of the challenge to the sources of chiefly authority through which the department saw itself as controlling and governing the rural 'locations'. Ultimately the Native Affairs Department could not afford to accept any compromise over the form of tribal government as it was through these mechanisms that 'in the last resort its sole power of control was based.'(99)

Although the powers vested in the chief therefore remained subject to the prerogative of the institutions of the central state, for his subjects, the chief's authority to allocate and distribute land, his 'customary' rights to tribute and dues and his administrative control over the issuing of pass laws, all effected a substantial degree of control over access to material resources within the chiefdom. Whether August Mokgatle was appropriating a disproportional amount of these resources for himself, or merely ensuring that 'traditional and customary' methods of communal tenure continued to be practised (as the Department of Native Affairs would have it), he was ultimately acting as a brake on the material aspirations and demands of the dissenting sector. The exact nature of these material concerns needs to be elaborated on.

Although migrancy was still relatively discretionary amongst the Fokeng during this period, increasing pressure on squatters on neighbouring 'white' farms, coupled with increasing limitations on the availability of purchaseable land, stimulated a growing urgency to gain private control over resources amongst a large sector of the Fokeng community. On the one hand, those relatively affluent members of the chiefdom who aspired to own land privately[100] and to expand the base of their peasant production, identified the chief's prerogative and supposedly enforced 'communal tenure', as a brake on their aspirations. On the other hand, those migrants who were forced to supplement their income from rural productive activities through participation in the wage labour market were also becoming increasingly determined to challenge the chief's rights to tribute and 'tribal dues' as well as his power to administer the selective issuing of passes.

It is therefore clear that opposition to chiefly authority amongst the Fokeng had its origins in differing material interests within the community. The material ambitions of the leadership have been outlined above in the discussion of land purchases. At the same time, a substantial degree of migrant involvement in opposition to chiefly control, is witnessed by the challenges to the chief's allocation of passes and his rights to part of the earnings of wage earners returning to the district.

The involvement of migrants in the dispute does, as Godley claimed, suggest the influence of 'urban' or 'Europeanized' ideas, and quite possibly did effect the increasing demands for the democratisation

of tribal government. However, to infer from this the general influence of the 'congress spirit', was stretching the imagination somewhat. The only evidence of any Congress involvement in the events at Phokeng came after the removal order had been issued by the Supreme Chief. This took the form of a letter from the Transvaal Native Congress which appealed to the SNA to desist from removing the malcontent leaders, and was a response to reading about the events at Phokeng in the newspapers.

> "Having seen from the daily papers that the government intends to take drastic measures in the Phokeng case, I am instructed by the executive of the Transvaal African Congress to humbly ask you that before such steps are taken, to allow native chiefs and the heads of native organisations to intervene in this matter and see if they cannot bring this trouble at Phokeng to a peaceful settlement."(101)

The correspondence appears to have been duly ignored by all parties involved. It does not seem likely in the context of the growing anti-chieftaincy movement in the district, that the mediation of chiefs in the dispute would have been too warmly received by the malcontents.

The rural community of Phokeng was widely acknowledged to have a large number of well educated and 'enlightened' or 'advanced' members within it. This, it is argued in chapter 6 below, was largely the result of the extensive availability of mission education within the chiefdom, and in particular, the consequence of the influence of education in English provided by Kenneth Spooner, a black Jamaican missionary who established the Pentacostal Holiness

Church in Phokeng in 1913. It is therefore arguable that the influence of 'European' ideas, was as much the product of educational advancement within the rural area, as it was reflective of the transportation of urban-based ideology. Indeed, Spooner himself was singled out in somewhat conspiratorial terms as being responsible for 'fermenting revolution' within the Fokeng community.(102)

The second ideological influence by which Godley laid great store, was the re-emergence of the old succession dispute. Although some of the 'rebel' leaders claimed that the dissension in Phokeng was related only to contemporary events and not to this historical conflict over succession,(103) Godley was not entirely wrong. The involvement of many of the dissenting section in the events of the 1890's suggested that the history of the succession dispute was providing a rallying point for members of the chiefdom. The testimony of Bartolomia Monnafela Mokgatle, supported this.(104) However, once again Godley failed to understand the material interests underlying the re-emergence of this form of 'tribalist' politics.

The revival of the old succession dispute was very important in situating the different sources of opposition to August Mokgatle, within a common framework of socially recognisable customary norms. In other words, the succession dispute, despite having a dynamic of its own, served to provide an ideological rallying point for groupings with different material interests. It facilitated an ideological basis for common opposition to the chief which remained

within the frame of reference of 'traditional tribal politics'. Similarly, the central role played by the tribal legotla in opposition to the chief, provided a legitimate organisational form with which members of the chiefdom could identify. It was via these institutional and politico-ideological struggles that differing material interests within the Fokeng community, found common expression in opposition to chiefly authority and control.

One of the central elements of the struggle in Phokeng was over contested ideological interpretations of how 'traditional' African law and custom was constituted. It is ironic that this expressed itself most explicity in the Supreme Court when the 'rebels' appealed against the right of the Supreme Chief forcibly to evict them from the Chiefdom. It was ultimately at the discretion of a white judge to decide what constituted legitimate 'customary' processes and norms. This, however, was clearly identified by the 'rebels' as a potential loophole which, to a limited extent enabled them to challenge the arbitrary powers of both the chief and the Native Affairs Department. It was apparent that members of the rural communities of the Rustenburg district were sincerely looking to the courts of 'white' South Africa, both in order to attempt to push back the frontiers of control over their lives, as well as for justice in the resolution of their political and material grievances.

III 'Pele ga phatle go itaea mong - Our Talk is Simply Advice to You'

The initial appeals against the removal order in the Transvaal Appellate division of the Supreme Court failed.(105) The case was

then taken on further appeal to the Supreme Court in Bloemfontein, where it was heard by Judges Curlewis and Kindall.

The formal legal questions on which they had to decide were: Firstly, whether or not the paramount chief had the right to expel members of a chiefdom and forcibly remove them from any tribal property; Secondly, whether or not such a removal entailed the exercise of criminal jurisdiction (the defendant claimed that it was merely administrative rights being exercised under customary law); Thirdly, whether or not such punishment could be meted out under customary law, without any recourse to a trial; and finally, whether or not such a removal order was contrary to the principles of civilization and therefore contradicted the repugnancy clause which regulated the application of 'Native customary law' in the Transvaal. In practice this meant that the court was effectively expected to define what customary law stipulated in each of these instances, often without any established precedent and in the absence of any customary legal code as existed in Natal. In passing judgement, Judge Tindall acknowledged that this was actually impossible, especially in the light of the contradictory evidence submitted to the court.(106) The court was forced to assess the legitimacy of autocratic chiefly powers within African customary law as well as the relationship between the chief and his legotla. Completely different interpretations of customary law in relation to these issues were submitted in the evidence of the plaintiffs and the defendant.

For the Native Affairs Department the case was seen as a crucial means of asserting its authority and establishing the authority of chiefs appointed by the department. It was of considerable importance to the department that it should win the case and thereby re-establish its prestige and authority within the communities of the Rustenburg district. More than half the witnesses called for the defendant were either formerly, or at the time in the employ of the Native Affairs Department. The first of these into the witness stand was Henry Melville Taberer, 'native' labour adviser to the Chamber of Mines and former assistant SNA. He regarded himself as an expert on 'native custom'.

> "I have almost all my life studied native custom."(107)

Taberer asserted unequivocally the paramount chief's right to remove unruly subjects. He said that this was an indispensable power if any chief was to perform his main function, which was to preserve the the 'unity of the tribe'. As far as Taberer was concerned, almost any action was justified under customary law if it had as its objective the preservation of tribal unity and identity.(108) He went on to say:

> "It is quite impossible to conceive that rival sections of a tribe can set up rival legotlas. Rival sections or recalcitrant members would not be allowed to arrive at this stage ... unity must be preserved at all cost".(109)

Taberer's evidence, however, was based on his experience of Zululand and Rhodesia. He acknowledged having had no experience of the

Tswana, and could not supply any examples in his own experience of these powers of removal being exercised. Nonetheless, he was adamant:

> "I say the chief has the power of expulsion. I got it from the natives".(110)

When questioned further about the legotla, Taberer classified it as an advisory rather than decision making body. He stated that members were nominated by the chief and although many members of the legotla were of royal blood, this was not automatic. Positions on the legotla were not hereditary. The chief had the right to remove any one, or all members from the legotla. Taberer suggested that the popularity of a chief would depend on the support of his legotla. The chief would therefore be wise to consult his legotla regularly, but the legotla had no powers without the chief. They could not call meetings or hold trials. They could not depose the chief and in general the legotla's wishes were not 'automatically' adhered to, but this rather relied on the discretion of the chief.(111)

> "... legotla members are there to interpret the will of the tribe as represented in their laws and customs. If one of them ceases to do that, the chief will have to remove him ..."(112)

Taberer continued ...

> "... the natives look upon any headman or sub-chief who is persistently recalcitrant, and persistently disobeys the laws of the tribe and the chief, as being a rival to the throne."(113)

Ultimately, Taberer pointed out, the chief was accountable only to the tribe as a whole through the pitso, and not to the legotla. He did, however, acknowledge that by the 1920's the chief's powers remained subject to those of the government and recognised that where the chief no longer had the power to enforce his decisions he relied on the 'paramount chief' in the form of the Governor-General to execute his decisions under customary law.(114)

Implicit in Taberer's evidence, as was the case with the other representatives of the Native Affairs Department, was the recognition that any challenge to chiefly authority which threatened the 'unity of the tribe', also threatened 'tribalism' as a source of political, ideological and material control by government over rural Africans. This informed a manipulative understanding of 'customary law', which dictated that there was no room for conflict within the processes of tribal government. This Taberer eventually stated explicity:

> "In regard to what are nowadays called political offences, the natives hardly had politics - they only had offences against the tribe ..."(115)

In a similar vein, John Glen Leary, a former magistrate at Zeerust stated in evidence that ...

> "... the tribal system is based on unity ... as soon as a faction sets itself up against government, it is subversive of government as a unity".(116)

In particular, Leary pointed out that the establishment of any alternative to the chief's legotla would constitute an 'act of rebellion".(117) Leary supported Taberer's evidence on the limitations of the legotla's powers and suggested that the chief was subject only to the higher authority of government officials. It was only the Supreme Chief who could not be called to task by anybody. This, however, did not mean that chiefs did not have to endeavour to be popular.(118)

Harry Denton Hemsworth, an SNC in the Transvaal, was probably most explicit in the manipulative, rigid and formalistic way in which he presented the application and functioning of customary law. Hemsworth stated that traditionally the chief was an autocrat with absolute powers to fine, flog or expel anyone who opposed him. If customs had been modified then it was only to the extent that the chief had lost some of his absolute authority and had become accountable to government and the Native Affairs Department.(119) Hemsworth claimed that the legotla was a purely advisory body and largely administered the chief's decisions. In a situation where the chief was facing opposition, Hemsworth claimed that the chief would simply take the entire government of the chiefdom into his own hands, in the interest of 'maintaining unity'.(120) Thus the chief could depose a legotla at will and the legotla had no rights to challenge, charge, fine or depose a chief.(121) By contrast, when threatened the chief would, according to Hemsworth, often remove malcontents without a trial or hearing.(122)

Having thus presented a rigidly undemocratic method of government as the traditional 'norm', Hemsworth suggested a similar application of tribal government in the changed circumstances of the 1920's. Hemsworth under cross-examination by Malan, the attorney for the 'rebels' responded as follows:

> "Malan: The safest way of ascertaining what the customs are would be to find out how they are practised at the present day by a particular tribe?
>
> Hemsworth: No, not as regards ancient customs.
>
> Malan: Do they not regard their law and customs to be what they practise today?
>
> Hemsworth: No, they continually refer to the ancient laws of their fathers.
>
> Malan: Yes, but in order to find out what the law is today one must see how the law is applied today?
>
> Hemsworth: I do not think so".(123)

SNC for Rustenburg from May 1923, Donald Rolfe Hunt, largely corroborated the evidence of Taberer, Leary and Hemsworth. Having only been in the district for a short while, Hunt, like the others, was forced, when substantiating his evidence to rely on examples from outside of the district. None of the witnesses thusfar could quote examples from Tswana chiefdoms to substantiate what they were saying. Hunt relied mainly on examples drawn from Pedi chiefdoms in Sekhukhuneland. He did nevertheless provide a more sophisticated breakdown of 'tribal government' identifying distinctions between various forms of the legotla and different sources of advice to the chief. Hunt distinguished the legotla from the headmen, and noted that each headman had his own local legotla. The chief had his own

legotla which was the last source of appeal from any of the headmen's decisions. However, the chief consulted different people to different degrees. There were always a number of blood relatives in the chief's legotla who were the closest advisers to the chief. These people were referred to by Hunt as the bana ba legotla.(124)

Hunt went on to claim that even the bana ba legotla members were merely advisors to the chief and that he was in no way obliged to accept their opinions. The chief could remove anyone from his legotla if he so desired. The legotla, however, could not remove the chief, and traditionally only a pitso of all the members of the tribe would have been able to depose a chief, but Hunt claimed that this could traditionally be done without a trial. He went on to complete his evidence by saying:

> "I am not favourable to rebels, white or black"(126)

All the officials of the department presented both customary legal processes, as well as customary law itself, in rigid, formalistic and legalistic terms. They provided a picture of autocratic chieftaincy unrestrained by the sentiments of the chiefdom as a whole and subject only to the mediation of officials of the central state. These views reflected the central strategic concerns of senior Native Affairs Department officials, that chiefly authority had to be upheld as the central means of controlling the African population of the rural areas.

Similar views were also reproduced by a missionary George Theodore Schwellnus who had been resident in Louis Trichardt for 41 years. Schwellnus suggested that love and respect for the chief was a part of 'native psychology'. He testified:

> "It is wonderful what troubles and tribulations even the Christian will endure for his chief ... That is why in cases of people going against him, he would not be deposed according to native law, because he is the legislation of the tribe, and of course he has not provided for a law to do away with himself. If they do away with him, it is without the law and is lawless and rebellion. The chief is the only person who can make or give a law to meet the circumstances of the tribe as necessary. There is no other power to make or give laws. So there could not be a law to discard him; in such a case it would not be native law".(127)

Probably the most important witness for the defense, however, was Chief Isang Linchwe Pilane of Mochudi, the paramount chief of the Kgatla.(128) Pilane was specifically asked to go to Bloemfontein in order to give evidence, at the expense of the Native Affairs Department. Pilane was described as a chief who 'ruled his people, including the Rustenburg section resident at Saulspoort, with a firm hand'.(129) He had expressed interest in the case before the Supreme Court and five months earlier had provided written evidence asserting the paramount chief's right to remove recalcitrant elements. He provided a number of historical precedents to prove this. He ended his correspondence by saying:

> "I have been watching this case and am greatly interested with it. It would be better for me to be invited to attend to give evidence in Pretoria personally as the decision of this case will be future ruling of the Supreme Court. I wish to attend".(130)

Pilane was slightly less concerned to provide an abstracted, normative account of African customary law. His position as chief meant he experienced directly the waning influence of his status - as much in relation to the Native Affairs department, as to his own subjects. Implicit in his evidence was the recognition of the inferior status of customary law:

> "... the custom changes according to the law of the country. The customs still remain in the tribe, only, of course, the government issues laws against the practise of the customs ... The natives will continue to exercise their customs until the government under which they live, make such customs illegal by law. That is what I mean."(131)

This clearly affected the standing of chiefs who were traditionally the highest legal authorities and sources of appeal in any chiefdom. Pilane acknowledged this to have limited his own abilitiy to act independently. When asked whether or not it was his 'ambition' to rule 'without interference', Pilane answered thus:

> "That is the ambition of all the chiefs. I like to rule to the best of my ability, to keep the tribe together .. A chief likes to rule as he sees fit, but he must remember that he lives under a white man's government and cannot do what he did before."(132)

Pilane expressed the contradictory experiences of most chiefs in the Transvaal during this period. On the one hand, the subservient status of chiefs in relation to the Native Affairs Department severely diminished their status and prestige in the eyes of their subjects. On the other hand the department itself was attempting to

rule through the chiefs and was attempting to bolster their authority to this end. Customary law and the institutions through which it was practised, were at one and the same time being devalued while being expected to serve the ends of political and ideological control of the rural reserve population. It therefore became a primary concern of chiefs to assert the ideological hegemony of customary practices as they defined them. Thus Pilane claimed:

> "The customs which were in the tribes before still prevail; I mean the customs in big matters; there may be a change in small matters."(133)

Hence when 'customary practices' had broken down, or had been 'changed', this was identified by Pilane as the product of 'contact with Europeans' and the influence of westernised ideas.(134) He presented pre-colonial 'tribal politics' as disciplined and harmonious, if a little harsh, and claimed that: "in the old days there were no drastic matters".(135) By contrast he also said ...

> "It is only now that our young people come from the towns that we find injustices done."(136)

For the rest Pilane's evidence focused on the powers of the chief relative to the legotla. His central assertion was that the legotla members were simply advisers who were nominated by the chief on the basis of their intelligence. This did not at any stage mean that the legotla could exercise the same powers as the chief.

> "They show this by always saying, after they give advice to the chief, 'Pele ga phatle go itaea mong', meaning 'our talk is simply advice to you".(137)

Pilane claimed that the legotla members were chosen by the chief because he could trust them. If this trust was felt to be broken the chief could remove the legotla. Because of their responsibility to the chief, Pilane claimed that under customary law the legotla had no rights to fine, depose or even challenge the chief. This was a reserved right of the pitso - a meeting of the entire tribe.(138) In regard to the Fokeng example, Pilane claimed that the legotla had breached customary law by calling and holding meetings - a privilege which he said was reserved for the chief. He also refuted the right of the legotla to administer justice without consulting and receiving the approval of the chief.(139)

In sharp contrast to this evidence, Pilane claimed that chiefly government was not really autocratic, as a good chief was likely to take the advice of his people.

> "... We have to take into consideration the wishes of the people ... it would not do to bump up against the tribe on every conceivable occasion."(140)

The clear conflict which Pilane was identifying was between the chief's accountability to his people and his dependency on government. Ultimately the chief depended on the government for the exercise of criminal jurisdiction, for the physical means to enforce their decisions or punitive measures, and indeed, for their very positions as chiefs. In practice, this often manifested itself in the increasingly arbitrary exercise of power, which shifted away from any basis of accountability to the people of the chiefdom.

'Customary law', governing the rights and powers of chiefs, was ideologically interpreted by Pilane to accommodate this process.

The only witness called for the state who had any direct experience of the conflict of Phokeng, was Reuben Mokgatle, the paternal uncle to the chief August Mokgatle. Under examination, Reuben merely re-stated the chief's exclusive rights under customary law to call and depose a legotla and to expel any member of the chiefdom who was either insulting or disobedient to him. He also asserted that no-one, including the bana ba legotla consisting of the blood relatives closest to the chief, had the right to impose a fine on the chief.(141) When presented with an example in which August's father Tumagole was fined an ox for allocating some land to white farmers contrary to the wishes of his legotla, Reuben claimed that the chief had simply accepted the 'advice' of his legotla and had paid the ox as compensation.(142)

> "Nobody has any authority to try the chief."(143)

By contrast, most of the witnesses led by the plaintiffs were themselves directly involved in Phokeng. They challenged at every level the interpretation of customary law outlined above. Petrus Mokgatle, the half-brother to Reuben offered a completely conflicting interpretation of the Tumagole incident. Petrus was on the legotla at the time and claimed that Tumagole was tried and punished.(144) Petrus went on to challenge the right of the chief to banish one of his subjects suggesting that under customary law this was not a recognised form of punishment. This he did through

reference to the 'greatest Fokeng chief', August's grandfather Mokgatle Mokgatle.

> "No one would have been disrespectful to him and call him a dog to his face, because he was a great chief ... If anyone did say it ... they might have killed him. They would not have sent him out of the country. They could not. They might kill him, but not eject him, because expulsion is a bad thing, a man has to live on a dog's flesh if he is an outcast."(145)

Petrus also challenged the chief's absolute authority over the legotla. He claimed that the chief did not customarily nominate the bana ba legotla, but that the members were selected by 'the people', who were represented in this process by the headmen. Only those of royal blood had the right to be elected. In this process, Petrus claimed that the chief had no greater right than anyone else present.(146) On this basis Petrus went on to claim, that while no individual could criticize the chief, the bana ba legotla could, "because the legotla has the power".(147) He claimed that the bana ba legotla was defined as "the men who try cases"(148) and claimed that they had the right to convene and try cases without the chief being present. Petrus concluded that 'tribal government' had to be based on the joint operation of the legotla and the chief; neither could legitimately operate completely independently of the other. In principle, however, he said that ...

> "The legotla is above the chief, but if the chief discusses a certain matter the people will listen ..."(149)

The evidence given by Petrus was reiterated by Masilo Bogobane who was adamant that the chief was 'not above the law'.

> "The law has been laid down and the chief must obey. He would have to pay (a fine - G.S.). The chief is under the law and the law is to pay fines. That is by native custom."(150)

Similarly, Robert Ngabedi, a 78 year old man from Mafeking, claimed that the chief could be tried by the legotla. He said that the chief could not act without the consent of the legotla and claimed that traditionally banishment as a form of punishment was unheard of.(151) Exile, he claimed was rather the product of white rule:

> "I can remember before the white man governed the country. No-one was ever smelled out or killed in those days. No-one ever disappeared without people knowing what had become of them."(152)

Abraham Paetele supported this evidence claiming that not only was banishment contrary to customary practices, but that no punishment could be meted out without a trial before the legotla. Paetele was one of the original malcontents who left Phokeng during the succession dispute in the 1890s. Paetele claimed that those who left at that time did so of their own accord. He said that they had had their cattle confiscated - the most serious punishment which could be inflicted by the chief.(153) Paetele clearly identified this succession dispute as the root of all the conflict, and bemoaned the fact that the old chief Mokgatle Mokgatle had not been listened to:

> "All the trouble we have today is due to the fact that some of our tribe wanted Tumagoola and others wanted Bloemhoef. The old chief pointed out to us that Tumagoola was not the right person as he was a drunkard. We have not lived peaceably since."(154)

Paetele, having asserted that removal was contrary to customary law, went on to acknowledge that the government had assumed this power for itself. Having listed his reasons for rejecting August Mokgatle as chief, he then referred to the deposition of Chief Darius Mogale of the Ba Po in 1908(155) and appealed to the Native Commissioner to remove August. He claimed that under customary law ...

> "... if we were not under the European government we would have killed a man like August."(156)

Finally, Paetele expressed his disappointment in the court, suggesting that it was actually August who was on trial and not the 'rebel' leaders.

> "Although August is such a bad man, I do not know that the Governor can throw him off the tribal property without trying him. I thought today we would bring him to trial. We generally appeal from the smaller courts to the chief's courts and if the judgement is delivered there we are satisfied. I want August to go away. I want him to be thrown out. I do not know that it is necessary to try him first. I thought we were trying him today. We have been suffering for the last five years. Today we have brought him before the court. The commissioners are not helping us at all."(157)

David Mokgatle, one of the central figures in opposition to August, reiterated many of the points made by other witnesses for the plaintiffs. David was a member of the bana ba legotla and was

therefore involved daily in applying 'customary law'. He claimed that the chief could be tried and punished by the legotla, that the legotla had the right to call meetings and that during the dissensions these rights remained. He rejected the right of the chief to remove anyone from the tribal property.(158) David went on to assert that under customary law, the legotla was effectively the most powerful body in the chiefdom. In so doing he also cast some aspersions on the authority of the 'Supreme Chief' in the form of a representative of government:

> "There is no paramount chief over him (August - G.S.). The only one that is paramount chief is the legotla ... The legotla is the paramount chief over our chief. The chief has to obey what we decide. The legotla is powerful. If the chief does anything wrong it has to try him. My contention is that the chief is under the legotla. That is our law."(159)

David Mokgatle went on to challenge the extent to which the government was sincerely concerned with the exercise of customary practices. He warned that ...

> "According to native custom we could have killed our chief ... We know today that we are under European government. That is why we have the right and like to report to the administration. According to Native custom we would simply have killed him."(160)

He clearly identified that the 'rebels' considered themselves 'civilized' and their application of 'tribal custom' was modified in keeping with this fact. Hence, David claimed that 'freedom of speech' was a part of 'tribal custom', suggesting that anyone was free to express his or her views, even if they were in 'opposition'

to the chief.(161) In a similar vein, the dissenting leaders claimed throughout the dispute that they were law-abiding citizens who respected the 'laws of the land' and those of the government. Angry and frustrated at being deemed a 'rebel', David painted a picture of what the exercise of 'uncivilized customary law' would entail:

> "August ought to know it is the legotla which makes him a chief. The legotla have only the right to cut his throat. We cannot expel him. We cut his throat. The Almighty will look after his soul. We cannot send him out of the country. The only thing to do is cut his throat. We give him a short cut to heaven. As to whether we should send him into the Pretoria district, who would look after him there? We send him to his creator. According to the law of the Transvaal, Mokgatle is not a paramount chief. The government is the paramount chief. Now do the government want us to carry out our business according to Native law?"(162)

The evidence submitted by the various witnesses in the course of the appeal, is extremely revealing of both the form and content of the struggles of the preceding four years and court evidence offers considerable insight into the consciousness of the protagonists. The Native Affairs department officials' presentation of African customary law as a rigid set of norms, dictating autocratic and absolute control of almost every aspect of rural African's lives, reflects little more than the imperatives of departmental politico-ideological control. The implied unquestionable authority of the chief under these circumstances serves the department's purposes in the context where the chief himself is completely dependent on the department for his position. From the chief's perspective this authoritarian definition of his powers through the

entrenchment of rigid customary legal processes, facilitated both his ongoing political control, as well as his ability to regulate and manipulate material relations within the chiefdom. It was precisely these powers that were being challenged by the dissidents.

SNA Godley in his report on the enquiry he conducted into the dissensions at Phokeng, noted that the majority of the aggrieved section were "of the more advanced and educated members of the tribe." Alternatively he referred to them as the more 'enlightened' members.(163) It was indeed a largely educated and generally affluent 'rebel' leadership that was challenging the particular form in which customary law and legal institutions were being constituted. Yet is is of crucial importance to note that this was being done not through the rejection of customary law, but through its ideological reinterpretation. Hence, in an affidavit submitted to the Supreme Court by the 9 'rebel' leaders, they stated:

> "That the dissenting section of the tribe, of whom your petitioners constitute a portion, is really a body which seeks to uphold the tribal laws and customs, and not to oppose them, and where they have been in opposition to the chief it has been where the chief has himself violated the ancient customs and laws of the tribe and has taken upon himself the arbitrary and autocratic government of the tribe."(164)

The 'rebel' leaders were demanding the democratisation of tribal government, not in an arbitrary manner, but via the already established, culturally and ideologically identifiable sites of struggle. Through the established legitimacy of the legotla, and the status and standing of members of royal blood, the 'rebels'

challenged the particular form in which customary law was socially constituted. However, in so doing, the 'rebel' leaders' reference points were often 'westernised':

> "We respectfully beg to state that the time has now arrived when the autocratic rule of Chiefs should be dispensed with. The march of civilisation demands it. Our White Guardians, the English Nation for hundreds of years, has recognised the justice and right of this. His Majesty the King, the White Chief, does not rule England autocratically but is bound to the decisions of his legotla or Parliament. Our own great white Chief the Prime Minister does not govern South Africa but is bound to the decisions of his legotla or Parliament. Why then must we be placed under a Chief in whom we have no faith and trust owing to misrule? It may be said that we have not yet advanced far enough to receive the benefit of the white system, but we submit that this is not so, and at any rate the Department of Native Affairs should at least recognise that this is the position which will have to be achieved in the future and should march on that road, rather than give increased power to the Chief ..."(165)

The Fokeng 'rebels' never threatened abolition of the tribal system as such. As a result, the ideological forms of the challenge to August Mokgatle facilitated an alliance between groupings with different material interests, in opposition to the chief. For the leadership, however, if their challenge was successful, it offered them a foot in the door of tribal government and consequently a greater degree of control over material resources, and the ability to thereby advance their own private interests.

The 'rebels' found a great deal of support in the evidence led by Sol Plaatje, a former chairperson of the South African National Native Council. Apart from explicitly supporting their specific

claims in regard to the legal standing of the legotla in tribal politics, Plaatje also made a plea for the democratisation of the system of chiefly authority. Plaatje asserted that 'native government' was traditionally democratic and had become disfigured and deformed under white rule.(166) This demand for democracy was, however, gaining momentum amongst educated 'natives', claimed Plaatje.

> "As the young man gets educated and comes into contact with modern development of the white man, and how the governor would be advised by his ministers, the young man wants his chief to rule his people so that the people can have a say and elect their representatives. That is the tendency."(167)

However, the terms in which Plaatje's evidence was dealt with by the court, reflected the decision which Judges Tindall and Curlewis seemed destined to arrive at. Both judges ruled that Plaatje's evidence was exceptional due to his being a 'civilized and educated native'. It was therefore suggested that he was projecting unconsciously his desire for democratic tribal government into the sphere of customary law where it did not really apply.(168) The court passed judgement for the defendant and ruled for the defendant on all the issues placed before it, despite the uncertainty which Judge Tindall acknowledged. On June 26, 1926, the 9 leaders left Phokeng and 351 of their followers voluntarily joined them.(169)

The court decision, however, is itself less significant than the fact that the Supreme Court had become a vehicle of struggle between different fractions within the Fokeng chiefdom whose competing

interests had found ideological expression in conflicting interpretations of customary political and legal processes. The complex expressions of 'civilized' or 'detribalized' aspirations, interwoven with ideological appeals to 'traditional' law and custom, which characterised the appeal of the 'rebels' did not simply express particular material concerns. They signalled the insertion of negotiated jural authority, reflective of historically overlapping political claims, into the highest white court in the land. Despite the fact that the rebel faction lost their claim, the dispute in the Supreme Court offered the potential for challenging not just the legal authority of August Mokgatle, but the political authority of the Supreme Chief. Neither could be tolerated by the N.A.D. The crisis of control within the Fokeng chiefdom reflected a wider crisis of control for the N.A.D. It was indicative of the bankruptcy of the existing administration through tribal authorities. In order to understand the subsequent attempts by the central state to revamp its programme of 'retribalisation' and to rearm its ideological and administrative machinery, it is necessary to examine in some detail the more general relationships between the rural African population, their chiefs and the N.A.D.

IV 'All Things to All Men' - Chiefs, The 'Tribes' and the Native Affairs Department

In the second half of the 1920s the state strategy of retribalisation was explicitly rooted in the vindication and bolstering of 'traditional forms of tribal government' and especially the institution of the chieftaincy. The Report of the

Native Economic Commission of 1930 - 32, which throughout supported the trend towards segregation, stressed the advantages of this approach and criticized attempts to break down customary institutions.

> "The object should therefore be to use their institutions as far as this is possible ... The fact that there can be such a thing as non-capitalist, non-individualist economic organisation hardly seems to have been recognised. Whether we look at the question from the point of view of utilizing existing institutions as the stock on which to graft the scion of progress, or whether we are merely concerned with the task of carrying out the measures thought necessary for the welfare of the Natives in the least costly manner possible, it is uneconomical to disregard the institutions which they understand, which they prize, which can be used with the least friction and cost to achieve this end. Where the native chief carries out the commands of the Supreme Chief, he is honouring himself by so doing : where the white man carries them out he is often regarded merely as an instrument of a frequently unwanted rule. By using Native institutions as part of the administration of the country, we shall give the native a pride in the administration ... By disregarding their point of view, it even at times stirs up their active opposition."(170)

On the basis of these arguments the Commission Report recommended that the political authority and administrative duties of tribal chiefs be further bolstered and expanded.(171) In particular, the Commission identified the centrality of chiefly jural authority in the exercise of legitimate political power and strongly supported the measures of the 1927 Native Administration Act which provided for the recognition of autonomous chiefly courts with both civil and criminal jurisdiction(172) and which formally recognised 'customary law' although it did not stipulate its codification.

The Native Administration Act of 1927 represented the triumph of segregationalist ideology and gave an indication of the methods to be applied in attempting to resolve the crisis of control.(173) The primary object of the legislation was to co-ordinate 'Native administration' throughout the four provinces.

> "It was said of the bill when introduced into parliament that there was little in its ambit which was more than a general application of principles which had been found to work satisfactorily in one or the other of the provinces and that it might be described as a 'selective synthesis of existing conditions' designed to facilitate and harmonise Native Administration throughout the Union."(174)

Prior to the passage of the Act there had been a great deal of confusion within the Native Affairs Department over various aspects of chiefly political and legal jurisdiction as witnessed in the Fokeng disputes. This especially related to uncertainty on the part of local officials over where the legal jurisdiction of chiefs ended and where that of the N.A.D. began. From the Rustenburg district, questions from local state officials about the exercise of 'Native law' were flooding into the desks of both the Secretary of Native Affairs and the Secretary of Justice throughout the period prior to the passage of the 1927 Act. These confusions related to a wide variety of legal issues including uncertainty about the recourse and procedure for appeals against chiefly legal judgements, conflicting interpretations of whether the application of customary law was contrary to the principles of civilization or not, and the blurring of the fine lines between civil and criminal jurisdiction within African customary law.(175)

This confusion also led to a considerable degree of dislocation in the administrative and political functions not only within the N.A.D. but between the N.A.D. and the 'white' legal institutions of the Department of Justice. Despite the agreement reached by the two departments in 1923, which stipulated that magistrates appointed by the Department of Justice in areas with a large African population would only be appointed after consultation with the N.A.D.,(176) the uncoordinated operation of these different branches of the state continued as has been perfectly demonstrated in the Fokeng case.

In fact, the main sources of dislocation within the state rested in the conflicting political and administrative concerns of local as opposed to central administrators. In particular, this was reflected in the tendency for legal decisions taken in chiefs courts and upheld in magistrates courts to be overturned in the higher courts of the land. The strategic political and ideological concern to uphold the judgements and legitimacy of chiefly jurisdiction which was so vital to local native administrators, was hardly the priority in the Supreme and Appellate divisions of the judiciary where the autonomy of legalistic principles defined the mode of operation. Although there was no guarantee that on appeal the decisions of chiefs would necessarily be overturned, the fact that 'Native customary law' was never codified in the Transvaal meant that this potential always existed. This fact was unquestionably a central stimulus to the strategy of educated 'rebels' such as those at Phokeng of resorting to white civil courts

in order to challenge chiefly control on the Rustenburg district. Not only did these contradictions manifest themselves between different branches of the state, but within the N.A.D. itself. Here again, the dislocation within the Department was rooted in the frequently distinct priorities of local as opposed to central N.A.D. officials. Local officials who were in everyday contact with local communities were by definition more accessible to the African population which they administered. The nature of their positions demanded a greater sensitivity to local grievances both on the part of the chiefs and their subjects. Local officials of the N.A.D. were particularly aware of the delicate position of the chiefs through whom they ruled the African population. The fact that chiefs had to command a degree of popularity amongst their subjects in order to be effective, whilst simultaneously remaining subject to the overriding authority of the N.A.D., demanded a high degree of flexibility and elasticity in their administrative methods and particularly in their intepretation and application of customary law. In the Rustenburg district the existence of a very large mission-educated, Christian community, which expressly aspired to 'civilized' status, further emphasized the imperative of such flexibility in administration.

However, whilst local N.A.D. officials could make administrative adjustments to suite local requirements, they had little control over centralized legislative measures which often tied their hands. Not only were they confronted with a legal hierarchy in the central state which tended to apply customary law in its most legalistic forms, but they were also confronted with the predetermined

political imperatives of African Administration and control at a national level. It would be misleading to suggest that local N.A.D. officials were constantly at logger heads with the central administration. Rather, the object of this discussion has been to identify the potential for such conflict which explains the often contradictory strategies adopted by different members of the N.A.D. in mediating the disputes in the Rustenburg chiefdoms during the 1920s and (as will be demonstrated) the 1930s. This analysis offers some explanation of the limitations often imposed on local officials' materially (rather than purely ideological) based strategies for resolving tribal disputes. Thus in the Rustenburg district, the frequent demands for individual ownership of land or for 'private money' as Chief Mamogale put it, were constantly refused, despite regular representations from local officials that some space had to be provided within the tribal body-economic from 'progressive', 'civilized' 'natives'.

As Rogers pointed out, segregationalist ideology, tribalism and the preservation of the migrant labour system rested firmly on the entrenchment of the 'traditional system of Native Communalism'.(177) Thus, despite the emphatic recommendations by the Native Economic Commission in 1932 that individual land tenure be encouraged in the reserves,(178) and despite the rhetoric of the N.A.D. which proclaimed itself as the vehicle for advancing the 'native population from barbarism to civilization'(179) and slowly 'teaching natives the advantages of individual ownership of land', private land ownership was actively prohibited in the Transvaal throughout the 1920s and 1930s and beyond.(180)

The Native Administration Act, Number 38 of 1927, in attempting to systematize the administration and control of African communities, was explicitly concerned with an attempt to resolve some of the dislocated and contradictory features of this administrative system, the practical implications of which have been demonstrated in the Fokeng disputes.(181) This Act defined in detail the role of the N.A.D. in relation to the African population. Rogers summarized the political rhetoric behind the Act when he stated:

> "The essential function of the Native Affairs Department is to assist, guide, protect and generally to subserve the interests of a large underdeveloped and, for the most part, inarticulate Native population, which is rapidly emerging from barbarism and is in the process faced with the necessity of accommodating itself to a novel and highly complex environment, while at the same time its own tribal organisation, control, discipline, customs and traditions are rapidly and inevitably breaking down with the ever-increasing impact of European ways and standards of life ... It (the N.A.D.) is concerned to safeguard large masses of ignorant and untutored Natives, who are rapidly developing a sense of race consciousness, against the extravagances of fanatical agitators on the one hand, and to protect them from exploitation for personal profit and gain by unscrupulous persons - whether black or white - on the other."(182)

In a more prctical administrative sense, Rogers summarized the terms in which the 1927 Act defined the responsibility of the N.A.D.

> "It must in the widest sense govern the Native population in their own areas; it must provide special tribunals for the determination of disputes according to their own laws and customs in so far as such are recognised by the law of the land; it must regulate the ownership and occupation of land in Native locations and

> reserves and must inculcate among the people improved methods of agriculture and stock raising so as to ensure beneficial occupation of Native areas; ... it is concerned to secure for the people such educational facilities as are best suited to their state of development; ..."(183)

Rogers went on to list the duties of the N.A.D which included the administration of land tenure, contractual relationships with European farmers, regulations pertaining to the residence and employment of Africans in the urban areas, the pass laws and the regulations concerned with the fiscal affairs of the African population.(184) From his conclusion, Rogers made it clear that under the 1927 Native Administration Act, the N.A.D. was expected to function in a manner which would ultimately be so broadly defined as to by-pass the often contradictory operation of other branches of the state.

> "Embraced within the purview of the Native Affairs Department are those activities in relation to the Native population, which in so far as Europeans are concerned, absorb the energies of separate and specific departments.
>
> In a word, in its relation to the Native population, the Department of Native Affairs must as nearly as possible be 'all things to all men'"(185)

The extraordinary legislative and executive powers of the N.A.D. were entrenched in the central clauses of the 1927 Native Administration Act. Firstly, section one of the Act (as amended by Act Number 9 of 1929) stipulated that :

> The Governor-General shall be the Supreme Chief of all Natives in the Provinces of Natal, Transvaal and Orange Free State, and shall in any

> part of the said Provinces be vested with all such rights, immunities, powers and authorities in respect of all Natives as are or may be from time to time vested in him in respect of Natives in the Province of Natal."(186)

This section was of particular significance to African communities in the Transvaal where, unlike Natal, 'customary law' was not codified. In Natal, however, the rigid codification of 'customary law' vested in the paramount chief absolute and autocratic powers. These powers had never been clearly defined in the Transvaal where, as a consequence, the administration was frequently faced with the necessity of establishing them in the courts. This was becoming increasingly difficult for the N.A.D. as rural communities were being transformed through the development of capitalist relations and the breakdown of 'customary' mechanisms of political and legal control. These developments were clearly in evidence in the Fokeng dispute and in the challenge to the Supreme Chief's right to remove the rebels.

Indeed, the establishment of the Supreme Chief's powers and absolute authority thus accorded to the Governor-General and the Minister of Native Affairs, were explicitly designed to inhibit the resort to 'white' legal institutions on the part of 'tribal' Africans. In pointing this out, Rogers may easily have been referring to the African communities of the Rustenburg district specifically:

> "Natives are notorious for their love of litigation and, in the past, more particularly in the Transvaal, thousands of pounds have been dissipated in, and tribes have been financially ruined by, the institution by dissatisfied sections against their chiefs or tribes of legal proceedings of a frivolous or merely vexatious nature."(187)

Finally, section five of the 1927 Act specifically accorded the Minister or the Governor-General in his capacity as Supreme Chief, the power over the 'fusion and fission of tribes' and the removal of 'whole tribes of individual natives'.(188) This clause could as easily have been designed to meet the exigencies of administration in the Rustenburg district, and indeed it was frequently involved in the district in order to remove rebels, for at least thirty years after the passage of the 1927 Act.(189)

If these conferred 'customary' powers were not sufficient, the Act also conferred on the Governor-General the power to legislate by proclamation'. In fact, it was even possible for him to modify the 'customary' legal practices enshrined in the Natal code. However, if the powers conferred on the Supreme Chief provided a rigid and centralized means of political control which was made up in the garb of 'customary authority', then the system of edictal legislation offered a flexibility and adaptability which was utterly indispensable to local N.A.D. officials.(190) These measures, combined with those contained in the Native's Taxation and Development Act number 41 of 1925 (which regulated all 'tribal' finances through general and tribal trust funds and effectively removed all control over fiscal administration from the hands of chiefs and placed it in the hands of N.A.D. officials),(191) effectively did establish the N.A.D. as 'all things to all men' in relation to the African rural population.

However, in the Rustenburg district, even prior to the passage of the 1927 Act, it was the very overriding power of the N.A.D. which in many respects undermined the authority of chiefs who were ostensibly indispensable to the maintenance of tribal unity and to the ideological control of the rural population. The historical cohesion of tribal government in the district throughout the process of colonisation, combined with the prolonged access to land in many of these chiefdoms, meant that these strong chieftaincies persisted into the twentieth century and that chiefly control remained at the centre of rural political and economic relations. However, as rural resources became more scarce in these communities so the control of chiefs over the allocation and distribution of these resources was challenged. The ideological authority of Tswana chiefs in the district was also inreasingly susceptible to popular challenge as chiefs were structurally incapable of distributing resources which they did not have.

In its clumsy attempt to bolster the apparently dwindling ideological popularity of chiefs in the district, whilst entrenching their subservience to the central authority of the N.A.D., the white administration merely exacerbated the developing crisis of chiefly legitimacy within the chiefdoms of the Rustenburg district. By subjecting Tswana chiefs to the veto of the paramount chief, by incorporating them within the lowest ranks of the N.A.D. bureaucratic machinery and by entrenching their dependence on the sanction of white officials for their very incumbency, the state administration did more to undermine their ideological resilience than it did to bolster it. In this light, it is hardly surprising

that during the 1920s and 1930s longstanding succession disputes began to re-emerge within the chiefdoms of the Rustenburg district. As Henige points out, the establishment of 'indirect rule' in British colonial Africa brought about an increased concern on the part of the colonial administrators with regard to 'paramountcy, seniority, succession' and the like.(192) From the perspective of rural subjects in the Rustenburg district, the ability to demonstrate genealogical seniority or ideological primacy offered both the potential of winning the support of the administration in its appointment of chiefs and headmen as well as securing preferential positions in the allocation of shrinking rural resources. Thus, although it was seldom (if ever) conscious, views of the past were reworked, manipulated and remoulded to suit the particular political interests of various groupings within each chiefdom. The chieftaincies, perhaps more so than previously, were up for grabs.

The passage of the 1927 Native Administration Act did nothing to curb these resilient ideological struggles within the chiefdoms of the Rustenburg district in the period which followed. Members of the Rustenburg Chiefdoms, who unlike the 'rebels' at Phokeng, could make no vaguely legitimate claims to the chieftaincy itself continued to reshape and reconstitute perceptions and interpretations of the past systems of tribal government, to legitimise either demands for the democratisation of control within the chiefdoms or the right to collectively secede from the control of a particular chief.

Through entrenching the Rustenburg chiefs in the lower eschelons of the state bureaucracy, the colonial government ironically contributed to undermining these chiefs' ideological popularity amongst their subjects, which was to have provided the basis for 'retribalisation'. This was clearly represented in virtually every community in the district by the progressive dwindling of chiefly access to an income derived from support by members of the chiefdoms, and the consequent increasing reliance on a salary provided by the state.(193) Even in the attempt to breathe greater legitimacy into the African customary legal system (through the establishment of Native Appeal Courts and the granting of criminal jurisdiction to some chiefs) the administration further undermined the legal authority of chiefs whose courts now represented not the highest source of appeal in the land, but the lowest rung on the hierarchical legal ladder.(194)

FOOTNOTES

(1) The struggles in the Fokeng chiefdom provide the basis of my earlier work, See: Simpson, G.N., 'The Political and Legal Contradictions in the Preservation and Dissolution of the Precapitalist Mode of Production : The Fokeng Distributances, 1921 - 6'. B.A. (Hons.) dissertation, University of the Witwatersrand (Johannesburg), 1981.

(2) N.T.S., 316, 15/55 Bafokeng Tribe and Legotla to SNC (13/6/1921).

(3) ibid.

(4) N.T.S., 316, 15/55, SNC to SNA, (15/6/1921).

(5) N.T.S., 316, 15/55, Minutes of Godley's Departmental Enquiry into Bafokeng Dissensions (10/3/1924).

(6) ibid.

(7) ibid.

(8) N.T.S., 316, 15/55, Minutes of Meeting held at Phokeng (27/6/1921).

(9) N.T.S., 316, 15/55, Bafokeng Tribe and Legotla to SNC (13/6/1921).

(10) N.T.S., 316, 15/55, Minutes of SNA's Departmental Enquiry into Bafokeng Dissensions (10/3/1924).

(11) ibid.

(12) ibid.

(13) N.T.S., 3451, 86/308, SNA to SNC (15/8/1919).

(14) N.T.S., 3451, 86/308, SNC to SNA (17/3/1920).

(15) N.T.S., 3451, 86/308, SNA to SNC (26/3/1920).

(16) N.T.S., 3451, 86/308, Attorney P.R. De Villiers to SNA (18/10/1920).

(17) N.T.S., 3451, 86/308, SNC to SNA (9/6/1921).

(18) N.T.S., 3451, 86/308, SNC to SNA (16/8/1922).

(19) N.T.S., 3451, 86/308, SNC to SNA (17/1/1922).

(20) N.T.S., 3451, 86/308, SNC to SNA (20/1/1922).

(21) N.T.S., 3451, 86/308, Welbekend - Deed of Sale (9/1/1922).

(22) N.T.S., 3451, 86/308, SNA to SNC (28/7/1923).

(23) N.T.S., 3451, 86/308, SNC to SNA (14/9/1923).

(24) N.T.S., 3451, 86/308, SNA to SNC (15/9/1923).

(25) N.T.S., 316, 15/55, Legotla of Phokeng to NC (26/8/1923).

(26) ibid.

(27) ibid.

(28) N.T.S., 3451, 86/308, SNA to SNC (14/6/1921). The SNA responded by suggesting that the seller was unlikely to want to sell to 200 separate individuals in undivided shares.

(29) N.T.S., 316, 15/55, Legotla of Phokeng to NC (26/8/1923).

(30) ibid.

(31) ibid.; and

N.T.S., 316, 15/55, Minutes of SNA's Enquiry into Bafokeng Dissensions (10/3/1924).

(32) N.T.S., 316, 15/55, David Mokgatle, quoted in Minutes of SNA's enquiry into tribal dissensions (10/3/1924).

(33) N.T.S., 316, 15/55, Simon Mokgatle, quoted in ibid.

(34) ibid.

(35) ibid.

(36) N.T.S., 316, 15/55, Legotla of Phokeng to NC (26/8/1923).

(37) ibid.

(38) N.T.S., 316, 15/55, Minutes of SNA's Enquiry into Bafokeng Dissensions (10/3/1924).

(39) ibid.

(40) ibid.

(41) N.T.S., 316, 15/55, Legotla of Phokeng to NC (26/8/1923). The version of this letter in the N.T.S. files was not an original but it is evident that the letter was drafted by a legal representative of the legotla members.

(42) ibid.

(43) ibid.

(44) See here Simpson, G.N., 'Political and Legal', pp. 66 - 9. Also N.T.S., 316, 15/55, SNC - SNA (7/12/1921) and SNC to SNA (16/11/1921).

Chief Mokgatle Mokgatle, grandfather to August Mokgatle had two sons : Tumagole and Bloemhof. Prior to his death the old

chief appointed his younger son, Bloemhof as his successor - largely because of his disapproval of Tumagole's affinity to strong alcohol. However, on the death of the chief, there was considerable opposition to Bloemhof. A dispute arose between the supporters of the two sons, and eventually Tumagole was in fact installed by the Republican government. In the interests of some sort of political stability, Bloemhof and thirty or forty of his followers were forcibly removed to the farm Styldrift 583. Tumagole ruled as chief from 1891 until his death in 1896, when he was succeeded by August Mokgatle. With the accession of August to power, the malcontents of his late father's rule were permitted to return to Phokeng.

(45) Breutz, P.L., The Tribes of the Rustenburg and Pilansberg Districts, Ethnological Publications No. 28, Pretoria : Department of Native Affairs (1953), pp. 64 - 5; and N.T.S., 316, 15/55, SNC to SNA (7/12/1921).

(46) ibid.

(47) N.T.S., 316, 15/55, Minutes of SNA's Enquiry into Bafokeng Dissensions (10/3/1924).

(48) ibid. There is no definitive evidence which explains why August received the support which he did from the headmen at Luka. It is possible that the population at Luka stood to benefit from the purchase of Welbekend as the farm was much closer to Luka tha it was to Phokeng. (See Map). Luka was situated to the north-west of Phokeng and the farm in question lay even further to the north-west of Luka. There were som complaints from members of the Luka community about 'rebels' from Phokeng continually trampling their lands on the way to the farmland. See N.T.S., 316, 15/55, SNC to SNA (9/6/1922). These circumstances did not apply in the Kookfontein case as this farm was adjoining Phokeng itself.

(49) ibid.

(50) August Mokgatle even admitted to using money collected to sponsor the overseas trip of an ANC delegation for the purpose of paying off instalments on certain lands. ibid.

(51) ibid.

(52) N.T.S., 316, 15/55, SNC to SNA (28/11/1922); SNC to SNA (5/12/1922).

(53) N.T.S., 316, 15/55, Attorney A. Benson to SNA (28/8/1921).

(54) ibid.

(55) N.T.S., 316, 15/55, Magistrate Rustenburg to SNA (30/8/1921); SNA to SNC (12/10/1921).

The attorney representing the dissaffected section was extremely critical of both the Chief and the Native Affairs Department Officials involved in the dispute. Of Mokgatle he wrote:

> "It is surely within your knowledge that the man is never sober if he can get hold of intoxicants, and a drunken braggart native holding the position of chief can easily become a source of very grave danger to the community at large."

In reply to suggestions from NAD officials that he was involved in stirring up the discontented section, Benson retaliated thus:

> "If I may be allowed to say so, you appear to have jumped somewhat hastily to the conclusion that I am 'too ready to assume the unsuitability of officials of my own race for the responsibilities committed to their charge'. I presume, though it is not quite clear from your language, that by the term race you refer to white men as opposed to black. If such is not your meaning, then I frankly admit that speaking generally ... I do not consider the descendants of a race who so recently in the history of South Africa held the natives in slavery are the most suitable persons to be held responsible for the welfare of the natives in this country ... It seems to me a matter for profound regret that what I am given to understand is sometimes called in the service 'loyalty to the department', causes a highly placed official to sacrifice upon the altar of a spurious loyalty his high personal standards of truth, justice and right."

N.T.S., 316, 15/55, Attorney Benson to SNA (22/10/1922).

(56) N.T.S., 316, 15/55, SNC to SNA (18/10/1922).

(57) N.T.S., 316, 15/55, Magistrate to SNA (23/10/1922); Sworn statement by Lucas Mutle Diale, Rustenburg (7/9/1922). Lucas was identified as a member of the 'rebel' faction and had accepted the authority and fine of the legotla. He had been tried for assault.

(58) N.T.S., 316, 15/55, Public Prosecutor to SNC (18/11/1922).

(59) N.T.S., 316, 15/55, NC to SNA (22/11/1922).

(60) ibid.

(61) ibid.

(62) N.T.S., 316, 15/55, SNA to NC (14/3/1923).

(63) N.T.S., 316, 15/55, NC to SNC (27/8/1923).

(64) N.T.S., 316, 15/55, SNC to SNA (7/9/1923).

(65) N.T.S., 316, 15/55, District Commandant of Rustenburg to Deputy Commissioner S.A.P. TVL. Division (18/9/1923).

(66) Government Proclamation No. 760, (7/5/1923); Reproduced in N.T.S., 316, 15/55. Although this proclamation was framed for the Transvaal as a whole, rather than specifically to meet the needs of the N.A.D. in Rustenburg, it appears that N.A.D. officials in the district were relying on the location Regulations in order to solve the problems of dissension which they faced in the Tswana chiefdoms. In fact, from several references to the location orders prior to their being proclaimed, it appears that local N.A.D. officials were anticipating the promulgation of the regulations and were even restraining themselves until they were assured that their actions would be legally effective.

(67) ibid.

(68) N.T.S., 316, 15/55, SNC to SNA (22/9/1923). It was noted by the SNC that this was a deliberate strategy by Mr. Strange, (Magano's lawyer) who wanted to challenge the legitimacy of the Location Orders.

(69) In passing judgement, the judge noted the fact that

"... the government after a lapse of nearly 40 years now seeks to make regulations under section 14 of the law, (LAW No. 4 of 1885 - G.S.) instead of initiating new legislation to meet the exigencies of the conditions of the Native tribes ..." T.P.D. Kefas Magano versus Rex (1923).

(70) See N.T.S., 313, 9/55, TVL Jurisdiction of Chiefs and Headmen (1910 - 28); JUS. 399, 3/546/25; and G.G. 279, 7/3329, Native Chiefs Jurisdiction (Transvaal and Brisith Bechuanaland) Act (1924).

(71) N.T.S., 316, 15/55, August Mokgatle to SNC (27/12/1923).

(72) N.T.S., 316, 15/55, SNC to SNA (30/1/1924).

(73) ibid.

(74) ibid.

(75) N.T.S., 316, 15/55, SNC to NC, (25/2/1924).

(76) N.T.S., 316, 15/55, August Mokgatle to SNC (26/2/1924).

(77) 'A Chief and his Tribe', The Star (12/3/1924).

(78) N.T.S., 316, 15/55, Schedule of Departmental Enquiry into Bafokeng Dissensions (10/3/1924).

(79) ibid.

(80) N.T.S., 316, 15/55, Report by SNA Godley on Departmental Enquiry (15/3/1924).

(81) ibid.

(82) The following is a summary of Godley's findings as outlined in the report already quoted, ibid., pp. 1 - 12.

(83) ibid., p.6.

(84) ibid., p.8.

(85) ibid., p.8(A).

(86) ibid., p.9.

(87) ibid.

(88) ibid.

(89) N.T.S., 316, 15/55, SNA to SNC (30/1/1924).

(90) 'The Bafokeng Rebels', The Star (14/10/1924).

(91) 'Rustenburg Natives', The Star (7/10/1924).

(92) ibid., p.11.

(93) N.T.S., 316, 15/55, SNC to NC (26/5/1924).

(94) N.T.S., 316, 15/55, SNA to NC (6/6/1924).

(95) N.T.S., 316, 15/55, SNC to NC (5/8/1924).

(96) N.T.S., 316, 15/55, Rex versus Lucas Mokgatle to minutes of evidence (18/8/1924).

(97) This somwhat almarmist threat was repreated in the commercial press as late as the 6th October 1924.

"The position has existed for some time and in the opinion of the men familiar with native tribal matters in the district, it may lead to tragedy similar to that which occurred at Bulhoek ... The nearness of the scene to the Rand illustrates the danger of the affair to the white population." 'Native Chief Defied', The Star (6/10/1924).

(98) N.T.S., 316, 15/55, SNC to NC (11/9/1924).

(99) N.T.S., 316, 15/55, SNA Minute on Power of the Supreme Chief (2/5/1924).

(100) I use the term 'privately' here rather than 'individually' as the family unit remained the basis of peasant production during this period. However, the challenge to the chiefs' control over migrant earnings was based on a desire individually to control these earnings, or to invest them in the economic activities of the rural family, is not possible to generalise. A great deal of rhetoric about growing 'individualism' and the demise of parental control, in the Native Affairs correspondence, and the evidence to and report of the NEC of 1930 - 2, does not prove the predominance of individual control over migrant earnings. In fact, where migrancy was often 'semi-permanent', it appears that those migrants who were returning to the chiefdom on a regular basis, were doing so in order to invest their earnings in rurally-based productive activities. Nonetheless, although migrant earnings may have been controlled by family units rather than individuals, these earnings were often still preserved from appropriation for wider communal purposes.

(101) N.T.S., 316, 15/55, Acting Assistance Secretary of the Transvaal African Congress to SNA (11/10/1924).

(102) N.T.S., 316, 15/55, Confidential letter from NC to SNA (15/10/1924).

(103) N.T.S., 316, 15/55, Affidavit by 'Rebel' Leaders (27/10/1924).

(104) N.T.S., 316, 15/55, SNC to SNA (7/12/1921); Evidence of B.M. Mokgatle to SNA Commission of Enquiry into Bofokeng Dissensions (10/3/1924).

(105) N.T.S., 316, 15/55, Judgement of Justic J.A. Kotze in the case of Daniel Mokgatle and Others versus Minister of Native Affairs (29/5/1925).

(106) N.T.S., 315, 15/55, Daniel Mokgatle and Others versus J.B.M. Hertzog (April 1925), Judgement by Justice J. Tindall, p.12.

(107) ibid., Evidence of Henry Melville Taberer, p. 27.

(108) ibid., pp. 28 - 9.

(109) ibid., pp. 29 - 30.

(110) ibid., p. 33.

(111) ibid., pp. 35 - 8.

(112) ibid., p. 42.

(113) ibid., p. 44.

(114) ibid., p. 50.

(115) ibid., p. 51.

(116) ibid., Evidence of John Glen Leary, p. 75.

(117) ibid., p. 60.

(118) ibid., pp. 58 - 75.

(119) ibid., Evidence of Harry Denton Hemsworth, pp. 91 - 2.

(120) ibid., p. 102.

(121) ibid., pp. 102 - 4.

(122) ibid., p. 103.

(123) ibid., p. 100.

(124) ibid., Evidence of Donald Rolfd Hunt, pp. 123 - 9.

(125) ibid., p. 126.

(126) ibid., p. 129.

(127) ibid., Evidence of George August Theodore Schwellnus, pp. 89 - 90.

(128) ibid., Evidence of Chief Isang Linchwe Pilane, pp. 2 - 26.

(129) N.T.S., 316, 15/55, NC to SNA (30/1/1924)

(130) N.T.S., 316, 15/55, Isang Pilane to Magistrate, Gaberones.

(131) N.T.S., 316, 15/55, Daniel Mokgatle versus Hertzog. Evidence of Chief Isang Linchwe Pilane, p. 5.

(132) ibid., p. 24.

(133) ibid., p. 6.

(134) ibid., p. 5.

(135) ibid., p. 6.

(136) ibid., p. 6.

(137) ibid., p. 10.

(138) ibid., pp. 7 - 13.

(139) ibid., pp. 14 - 26.

(140) ibid., p. 6.

(141) ibid., Evidence of Reuben Mokgatle, pp. 105 - 112.

(142) ibid., pp. 112 - 116.

(143) ibid., p. 118.

(144) ibid., Evidence of Petrus Mokgatle, pp. 130 - 1.

(145) ibid., pp. 135 - 6.

(146) ibid., pp. 134 - 5.

(147) ibid., p. 136.

(148) ibid., p. 130.

(149) ibid., pp. 137 - 8. After the evidence of Petrus Mokgatle, the court record page numbers returned to page 50. The first section of the evidence numbered 150 pages. From this point on all evidence is from the second section which ran from page 50 to page 175 excluding schedules and affidavits submitted to the court.

(150) ibid., Evidence of Masilo Bogobane, pp. 138 - 9.

(151) ibid., Evidence of Robert Ngabede, pp. 127 - 130.

(152) ibid., p. 130.

(153) ibid., Evidence of Abraham Paetele, pp. 130 - 4.

(154) ibid., p. 136.

(155) ibid., p. 137. Refer here to N.T.S. 318, 16/55, Darius Mogale (1908 - 1913).

(156) N.T.S., 315, 15/55, Daniel Mokgatle versus Hertzog, Evidence of Abraham Paetele, p. 137.

(157) ibid., p. 137.

(158) ibid., Evidence of David Mokgatle, pp. 142-5.

(159) ibid., p. 145.

(160) ibid., p. 148.

(161) ibid., p. 142.

(162) ibid., p. 146.

(163) N.T.S., 316, 15/55, SNA Report from Enquiry into Bafokeng Dissension (15/3/1924), pp. 6; 9.

(164) N.T.S., 316, 15/55, Daniel Mokgatle versus Hertzog, Affidavit by Plaintiffs (27/10/1924).

(165) N.T.S., 316, 15/55, Legotla of Phokeng to NC (26/8/1923).

(166) N.T.S., 316, 15/55, Daniel Mokgatle versus Hertzog, Evidence by Sol T. Plaatje, pp. 149 - 72.

(167) ibid., pp. 169 - 70.

(168) ibid., Judgement, pp. 80 - 1.

(169) N.T.S., 316, 15/55, SNC to NC (26/6/1926)

(170) Report of the Native Economic Commission (N.E.C.), 1930 - 32, U.G., 22 (1932), pp. 30 - 31, paras. 199; 203 - 205. For this Section as a whole it is useful to see : Durbow, S., 'Holding a just balance between white and black' : The Native Affairs Department in South Africa, 1920 - 33', in Journal of South African Studies, Vol. 12, No. 2 (April 1986), pp. 1 - 23.

(171) ibid., pp. 32 - 6.

(172) ibid., p. 34.

(173) This point is central to Welsh's analysis of the 1927 Native Administration Act. Welsh, D., 'The State President's Powers under the Bantu Administration Act', Acta Juridica, Juta and Co., for the University of Cape Town (1968), pp. 81 - 100. Also see Beinart, W., Political Economy of Pondoland, pp. 196 - 7; and Bradford, H., 'Organic Intellectuals or Petty Bourgeois Opportunists : The Social Nature of I.C.U. Leadership in the Countryside', Paper presented to the African studies Institute, University of the Witwatersrand (June 1983), p. 9.

(174) Rogers, H., Native Administration in the Union of South Africa (First edition, 2 Vols.) Published under the Auspices of the Journal of Bantu Studies, Pretoria : Government Printer (1933), p. 11.

(175) See N.T.S. 313, 9/55, Transvaal Jurisdiction of Chiefs and Headmen (1910 - 1928); JUS., 116, 3/647/11, Jurisdiction of Native Chiefs in the Transvaal (1914 - 1922) and JUS. 399, 3/546/25, Judgement of Native Chiefs; G.G., 278, 7/3315, Bill to Provide for the better administration of justice in respect of Appeals from the courts of Native Chiefs in the Transvaal and British Bechuanaland (March 1924); and G.G. 279, 7/3329, Native Chief's Jurisdiction (Transvaal and british Bechuanaland) Act (1924).

(176) Rogers, H., Native Administration, (First edition), p. 11.

(177) ibid., pp. 130 - 2.

(178) Report of the N.E.C., 1930 - 32, U.G., 22 (1932), p. 28.

(179) ibid., pp. 3 - 48; and see Rogers, H., Native Administration, (First edition), pp. 17 - 27.

(180) ibid., pp. 140 - 8.

(181) This point is made by Beinart, W., The Political Economy of Pondoland, p. 196. In the Pondoland context he argues that "The changing attitude of the administration to the chiefs stemmed, initially, from the problems faced by officials in maintaining order in Pondoland and in increasing the effectiveness of government intervention ... officials were concerned to remould the institution of chieftaincy and to incorporate chiefs into the bureaucratic structure ... The recognition of chiefs and their more bureaucratic role, was enshrined in the 1927 Native Administration Act, a cornerstone of segregationis policy."

Also see Rogers, H., Native Administration (First edition), pp. 11 - 15; Herbst, J.F., 'The Administration of Native Affairs in South Africa', Journal of the African Society, (London), Vol. 29 (1929-30), pp. 478 - 489; and Garthorne, E.R., 'Applications of Native Law', Bantu Studies, Vol. 3 (1929), pp. 245 - 259. (Both Garthorne and Herbst served as Secretary of Native Affairs and Rogers was a Native Commissioner in the Transvaal with some direct experience of the Rustenburg district).

(182) Rogers, H., Native Administration, (First edition), p. 17.

(183) ibid., pp. 17 - 8.

(184) ibid., p. 18.

(185) ibid., pp. 18 - 9.

(186) Quoted in ibid., p. 20.

(187) ibid., p. 21.

(188) ibid.

(189) A particularly good example of this is in the Ba Tlhako Chiefdom of Chief Mabe in the Pilansberg district. See N.T.S., 329, 53/55, Chief Mabe, Rustenburg (1933-1950); N.T.S., 341, 89/55, Batlaka Tribe,

Rustenburg, Tribal Affairs (1925-1934); N.T.S., 7730 242/333, Removal of Tribesmen from Mabiskraal (1936-1950). Also see S.A. Law Reports, Rex versus Mabe and others, T.P.D. (1935) and Mabe Versus Minister of Native Affairs, S.A., 3 (1957).

(190) ibid., p. 22. Also see Herbst, J.F., 'The Administration', p. 482. The powers of the Governor-General to legislate by proclamation were set out in sections 27 and 28 of the 1927 Act. Section 27 empowered the Governor-General to make regulations relating to issues as specific as 'the exibition of pictures of an undesireable character' or the carrying of various weapons by 'Natives', to issues as general as 'the observance by natives of decency' or 'for the protection, control, improvement, and welfare of the natives and in furtherance of peace, order and good government.' Section 28 provided that 'any such regulations may be made applicable only in any particular areas or in respect only of particular classes of persons ...' Rogers, H., Native Administration, p. 25. For a sample of some of the proclamations passed into law between 1928 and 1933, which dealt with issues varying from the prohibition of assemblies of more than ten, to the regulation of the holding of mock war dances, see Rogers, H., Native Administration, pp. 26 - 28.

(191) ibid., pp. 40 - 57; 99 - 103; 107 - 108. Also see Beinart, W., The Political Economy of Pondoland, pp. 165 - 6.

(192) Henige, D., 'Truths yet Unborn? Oral Tradition as a Casualty of Culture Contact', Journal of African History, Vol. 23 (1982), pp. 405.

(193) N.T.S., 331, 59/55, Maintenance of Tribal Chiefs, Rustenburg (1927 - 1946).

(194) See N.T.S., 9222, 89/367, Establishment of Native Commissioners Courts (1935-1941).

CHAPTER FIVE 'WE ARE ONLY ONE TRIBE' - DIVISION AMONGST THE KWENA BA MOGOPA

The dispute within the Kwena ba Mogopa chiefdom spanned almost the entire period of the 1920s and 1930s. In the process, despite any machinations of the N.A.D., the dispute found its way to the Supreme Court and ultimately posed the most fundamental threat to the state stategy of 'retribalisation' through the development of a secessionist movement attempting to assert the independence of the outlying branches of the chiefdom from the control of Chief J.O.M. Mamogale. As in the case of the Fokeng dispute, the demands of the opposition section of the chiefdom and their multiple material aspirations were expressed through the appropriation and remoulding of 'customary' political and legal procedures. Yet unlike the Fokeng rebels, the opposition leadership in the Kwena ba Mogopa chiefdom could make no 'legitimate' claim to the chieftaincy itself with the result that their appeals to traditional law and custom were significantly distinct from those discussed and warrant detailed discussion in their own right.

I. 'Bethanie belongs to Bethanie' - Communal Purchase and Sectional Control : The Conflict Over Land

The Kwena ba Mogopa chiefdom was one of the largest in the district and the chief at the time was Johannes Otto More (J.O.M.) Mamogale. This chiefdom was divided into five different sections, spread over four magisterial districts. Only one section, the Bethanie 'location', was situated in the Rustenburg magisterial district.

Bethanie was the headquarters of chief Mamogale. The other sections of the chiefdom were in the Pretoria, Britz and Ventersdorp districts.(1) The two largest sections outside of the Rustenburg district were at 'Hebron' and 'Jericho' in the Pretoria district, each of which were about twenty miles from Bethanie and approximately twenty miles apart. These three main sections of the chiefdom were separated by privately owned 'white' farmland.(2)

The origins of the dispersed settlement pattern of the Kwena ba Mogopa are to be found during the period of the difaqane. In 1868 when the Kwena ba Mogopa began to regroup after being scattered by Mzilikazi, they settled at Bethanie, Hebron and Jericho, all under the aegis of the Hermannsburg Mission Society.(3) The Bethanie section was later reserved as a 'native location', but this was not the fate of the Hebron and Jericho sections, which were never formally reserved as such.(4)

> "Thus the tribe has automatically become split up into three distinct groups, though the tribal headquarters are at Bethanie and the natives of all three sections have always recognised that they owe allegiance to one and the same chief."(5)

At all three 'locations' access to land was originally through the purchases of the Hermannsburg Mission Society. In 1926 the Sub-Native Commissioner for Hammanskraal estimated the combined population of Hebron and Jericho to be approximately 20 000, nearly five times the population of Bethanie.(6) At this time, the Bethanie section controlled almost 21 000 morgen of land(7) as compared to 16 437 morgen controlled by the Hebron section and 9 260

morgen by the Jericho section.(8) It is therefore apparent that the latter two sections of the chiefdom suffered from a much greater population density in relation to land than was the case at Bethanie.

These conditions do not appear to have given rise to much open conflict during the reign of Jacobus Mamogale, who was father of J.O.M. Mamogale and preceded him as chief.(9) Jacobus was described as a powerful chief ...

> "... who ruled his people with an iron hand, exacted implicit obedience and when he embarked on matters of land purchase, saw that funds were forthcoming to complete the transactions."(10)

However, the conflicting interests in control over land, which later punctuated the reign of J.O.M. Mamogale and which took the form of conflict between the various sections of the tribe and the chief, were prefigured in the course of land purchases under Jacobus Mamogale.

> "It would seem that in most instances, if a farm was required by one of the sections it was acquired and paid for by that section though ultimately registration might have been effected in favour of the tribe as a whole."(11) (author's emphasis)

In contrast to Jacobus, J.O.M. Mamogale was described by N.A.D. officials as a 'weak and dissolute' man who was 'inept' and who, as chief, exercised 'no real discipline or authority over his people.'(12) In spite of this J.O.M. Mamogale appears to have maintained the full support of his legotla at Bethanie, which, when their chief was convicted of being in possession of alcohol, sent a

petition of support for him to the Minister of Native Affairs. They claimed that:

> "... the whole of the Bakwena tribe are greatly attached and devoted to their hereditary Chief Johannes Otto More Mamogale who has hitherto carried on the affairs of the Bakwena tribe in an able and satisfactory manner and under whose guidance the said tribe has made considerable progress in civilization and other things."(13)

They went on to warn that:

> "His (Mamogale's - G.S.) deposition would very seriously affect the unity and tribal organisation of the Bakwena people as your petitioners consider him, their hereditary chief, to be the tie which not only holds the Bakwena tribe together but also induces the Bakwena people to behave as faithful and law abiding subjects of His Majesty th King."(14)

The Bethanie legotla's petition was endorsed by the Hermannsburg missionary, Behrens, who suggested that chief Mamogale be pardoned and that 'educated natives' should be allowed to possess one or two bottles of liquor.(15)

Chief J.O.M. Mamogale was considerably less popular with his subjects at Hebron and Jericho. The early tensions relating to Mamogale's assertions of control over these outlying branches have been briefly documented in Chapter three.(16) Similar tensions, particularly manifest in the process of land purchases, gave rise to political dissension within the Kwena ba Mogopa chiefdom throughout J.O.M. Mamogale's reign and beyond.

In May 1927, a group of 'headmen' from Jericho wrote a petition to the Prime Minister listing their grievances against J.O.M.

Mamogale.[17] They accused him of 'misruling and misgoverning' and claimed that he had 'become unbearable' and that the chiefdom was in danger of being 'totally ruined'.[18] The petitioners accused Mamogale of embezzling at least £700 since 1903, when he had independently contracted to lease a trading site at Jericho at a rate of £30 per annum.[19] The petitioners further alleged that a levy of 10/- per head, which was paid in 1907 to effect the transfer of the farm Jericho from the Hermannsburg Mission Society, was never used to this end an that the money collected had 'disappeared'.[20] In 1908 the money collected from a further £1 levy for the same purpose allegedly suffered a similar fate.[21] The petitioners claimed that in 1917 £300 was collected for the purpose of a land deal. No land was bought and the money was never accounted for.[22] They also claimed that in the following year a tax of £3.10.0 was levied at Jericho and £3 at Hebron without any reason being given and without the money ever being accounted for.[23]

However, the primary source of conflict between Jericho and Chief Mamogale during this period was rooted in the purchase of the farm Elandsfontein 204.[24] This farm was attached to the Jericho 'location' and was presumed, by both the people of Jericho and some Native Affairs Department officials, to have been bought 'for the Jericho Section'[25] The farm was purchased in June 1921, after members of the Jericho community had approached the Sub-Native Commision complaining of a shortage of grazing land.[26] Prior to the purchase a meeting was held at Jericho at which those present voted to purchase the farm. This meeting was attended by Chief

Mamogale.[27] The malcontents at Jericho claimed, however, that the Jericho section were never consulted as to the price to be paid for the farm. They went on to suggest that Mamogale, who had independently contracted to purchase the farm, had agreed to a purchase price of more that three times the value of the land. They also accused the chief of misappropriating funds which were accrued from a £6 levy paid by members of the Jericho section in order to meet the purchase price.[28]

The purchase of Elandsfontein 204 was also a major source of complaint from members of the Hebron section of the chiefdom, many of whom refused to contribute to a tribal levy for the purpose of paying off the farm. Their objections had fundamental implications for 'tribal' forms of land purchase.

> "Their attitude is that the Hebron section paid for their own farms and that it is unjust and unfair that they should be taxed to meet a liability incurred in the first instance for the purchase of a farm for the Jericho section of the tribe."[29]

Elandsfontein 204 was not the only land deal which elicited these objections from members of the Hebron section. The purchase of the farm Nooitgedacht 384 in November 1929 which was adjoined to the Bethanie section,[30] evoked a similar response.

The branch at Bethanie also voiced their complaints over the purchase of Elandsfontein 204. At the pitso held at Bethanie they complained that the chiefdom was already heavily indebted through land purchases, (most notably Nooitgedacht 384) and that they could

not afford to contribute to the purchase price of any other lands.(31)

The tensions between the various sections of the Kwena ba Mogopa chiefdom over the issue of land purchase, and the refusal of large numbers of its people to contribute to the financing of 'tribal' purchases, posed substantial problems for the N.A.D.. Implicit in the demands of the various groupings, was the assumption that each section was responsible for purchasing its own land. This posed immediate problems of how land purchased was to be registered and also raised questions over the right of sections of a tribe to claim exclusive access to tracts of land attached to their respective branch. The resulting confusion over these issues was acknowledged by Sub-Native Commissioner Harries, who had represented the N.A.D. in the course of the Elandsfontein purchase. He admitted that:

> "Where a section of a tribe like that buys land, the Native Affairs Department has given no instructions as to what procedure we have to adopt."(32)

Not least of the problems facing both the Native Affairs administration and Chief Mamogale, was the fact that the chief's inability to collect the requisite funds in order to complete these land transactions, had resulted in the tribal finances becoming heavily indebted. By February 1924 the chiefdom had twice been on the losing end of litigation in the Supreme Court in connection with land transactions, and the immediate danger was that other 'tribal farms' might be confiscated in lieu of the outstanding payments.(33) These circumstances prevailed despite concerted attempts to raise the necessary finances.

In May 1923 two meetings were held at Bethanie and were attended by the Sub-Native Commissioner, J.O.M. Mamogale and all his 'responsible councillors', including representatives from the Hebron and Jericho sections.(34) At the second of these meetings a resolution was passed imposing a levy of £6 per annum on each male of nineteen years and over throughout the chiefdom.(35) In the year which followed the levy collections were described as 'most disappointing'.(36) The Secretary of Native Affairs identified three reasons for the failure of the levy. Firstly, he noted that it was 'impractical' to impose a criminal sanction for those who failed to pay.(37) Secondly, he pointed to the fact that Goverment Notice No. 382 of 1921, under which the tribal resolution had been published, was in the process of being challenged in the Supreme Court and this eliminated the chief's ability to resort to civil proceedings in the case of defaulters.(38) Finally, and of most significance, the Secretary of Native Affairs, stated that:

> "The Natives have shown themselves most unwilling to meet the levy, each group strongly advancing the view that it is only responsible for its own particular transactions and not those of the other sections. For instance, the Hebron section is very much opposed to subscribing money to meet the liabilities in respect of 'Elandsfontein' which lies in the Jericho area, and requests that any monies paid by Hebron natives be utilised for the purposes of meeting expenses arising out of the transfer of the Hebron location farms. Similarly the Bethanie section acknowledge liability in respect of the farm 'Nooitgedacht' No. 384, Rustenburg, but are unwilling to contribute towards the 'Elandsfontein' transaction."(39)

From this it is apparent that by 1923, large groupings within the Kwena ba Mogopa chiefdom were reneging on their 'traditionally defined tribal responsibilities' and were attempting to assert greater control over available material resources, both in the form of money and land.

As far as the N.A.D. was concerned, the affairs of the Kwena ba Mogopa chiefdom were further complicated by an exchange of land in the Rustenburg district in terms of Act No. 32 of 1914.(40) This involved an exchange between the government on the one hand and the Kwena ba Mogopa on the other, in connection with the Hartebeestpoort Irrigation Scheme, and the question arose as to how the land to be given to the chiefdom should be allocated and how the trust should be worded in the Deed of Grant.(41) In a letter to the Secretary of Native Affairs, the Reverend Behrens, the Hermannsburg missionary at Bethanie, made very strong representations that the farms should be granted "not to the Minister in trust for the Bakwena tribe as a whole, but to the Minister in trust for the Natives of the Bakwena tribe living in the Bethanie Location under Chief Mamogale"(42) Behrens' reasoning was that the land to be transferred to the government had been acquired exclusively by the Bethanie section and that "it would be most inequitable for the grant to be made in favour of the tribe as a whole"(43) In motivating this point of view, Behrens noted that each of the three main sections of the chiefdom had separately attained the land on which they resided. He claimed that each grouping expected to pay all their own costs, such as farm taxes, fencing costs and the like. He continued ...

> "So if one group decides to buy a new farm, the other two groups are not called upon to assist to buy such a farm, and in consequence they have no rights whatever on it, neither do they want any. And as each group is buying land by itself, the three groups are dead against being held liable for the debts of one of the groups.(44)

Behrens did warn against any farms being registered to the chief alone - "he has his private farms" - but maintained that farms should not be registered to the tribe as a whole. He acknowledged that there were two farms (Leeukop 501 and the farm Olievenpoort) which had been purchased by "the tribe as a whole", but claimed that these were the only truly "tribal farms".(45)

To add to the nightmares of the N.A.D. officials, by 1923, after fifteen years of wrangling, the Hermannsburg Mission Society was in a position to pass transfer of the Hebron and Jericho farms to the residents on these land.(46) This posed the obvious question of whether these farms would be registered in favour of the Minister in trust for the whole tribe or for the specific section concerned in each instance. Inextricably linked to these questions were the problems of whether or not the tribal finances and liablities could be treated as the responsibility of the chiefdom as a whole, when the land purchases involved affected only a specific section.

In 1908 the Transvaal Supreme Court had handed down a judgement which stated that:

> "... according to Native law and custom no section of a tribe could hold land as apart from the tribe and remain an integral portion of the tribe.":(47)

This decision clearly conflicted with the intentions and aspirations of the various sections of the Kwena ba Mogopa chiefdom. It also appeared legally to dictate the terms in which the Native Affairs administrators were able to handle the situation. In a later case, the Appellate Division of the Supreme Court handed down another judgement in which it was definitely stipulated that the property of individual members of a chiefdom, (such as stock) was not executable in respect of general 'tribal' liabilities.(48) These two legal decisions were of particular interest to the chiefdom's creditors in respect of the farms Nooitgedacht and Elandsfontein, as it left them no option but to attach 'tribal assets' such as land. The N.A.D. could not resist such claims to land which was registered to the chiefdom 'as a whole'.(49)

The combined effect of these circumstances, meant that the sections of the chiefdom which had refused to contribute to the purchase of lands from which they did not see themselves as benefiting, were threatened with losing their own farms if the chiefdom did not meet its liabilities. The Secretary of Native Affairs, concerned both with safeguarding the lands due to be transferred to the Kwena ba Mogopa under the Hartebeestpoort Irrigation Scheme and from the Hermannsburg Mission Society, as well as with defusing the tensions over this issue within the chiefdom, identified a potential loophole in the legal precedents which, he suggested, offered a solution to these problems.

In the case of Mathibe versus the Lieutentant-Governor in 1907, the court found that the status of a chief was dependent upon his recognition as such by the government.(50) This ruling was reapplied in the case of Matope Matope versus Day (1923), which dealt with a section of the Bakubung chiefdom which had separated itself from the central chiefdom in 1890 and which had remained separate thereafter.(51) When the leader of the Bakubung offshoot attempted to buy some land on behalf of himself and his followers, the government recognised them as a 'tribal entity' for the purpose of this purchase:

> "... this is a recognition by the government of the defendant as a chief for the purpose of the purchase of this land ... He is ... not invested with the full powers ordinarily possessed by Native Chiefs; nevertheless it was sufficient for the purpose of enabling him to acquire the land in question as tribal land and to bind the community of natives under his leadership ... The truth of the matter is that when the community, of which he was the head became a recognised tribal entity or tribe, he at the same time, by whatever title he might be known, became ipso facto its chief."(52)

On the basis of these legal precedents, the Secretary of Native Affairs suggested a possible method of both safeguarding the lands to be transferred to the Kwena ba Mogopa, as well as defusing the conflict between the various sections of the chiefdom. He suggested that the Bethanie, Hebron and Jericho sections of the chiefdom be recognised as constituting separate 'tribal entities' and that the relevant farms be registered in favour of the Minister in trust for the particular sections immediately concerned.(53) Quite apart from the legal intricacies of the situation, the Secretary suggested that ...

> "... from an administrative point of view the time is ripe to recognise these groups as separate and distinct the one from the other. Mamogale is inefficient, commands little respect and has mismanaged the tribal affairs; the three sections ... have from a practical point of view been more or less distinct the one from the other for many years, and are united as a tribe only sentimentally in that they render allegiance to a common chief."(54)

He went on to recommend that for administrative purposes Mamogale's jurisdiction should be limited to his headquarters at Bethanie, and that the existing sub-chiefs at Hebron and Jericho should be recognised by government as chiefs of their sections and as far as possible be made responsible for their own transactions.(55)

A series of meetings were consequently called in the three sections of the chiefdom, to discuss both the failure of the tribal levies to date, as well as the potential of formally splitting the chiefdom into three. On the 27th of March 1924, meetings were called by the Sub-Native Commissioner at Hebron and Jericho. The object of these meetings was primarily to get both the Hebron and Jericho sections to send representatives to a later meeting of the entire chiefdom to be held at Bethanie on the 11th of April. However, the Sub-Native Commissioner Hemsworth acknowledged that he had attempted to achieve more than this through, in particular, the Hebron meeting.

> "My own idea was to force their hands - to get to the bottom of this antagonism to the main tribe ... I told them that ... it appeared to me their idea was to regard themselves as independent."(56)

At the meeting Hemsworth explained the fiscal crisis facing the chiefdom and stated that the cause was the refusal of members of the different sections to contribute to the tribal levies. He explained that it was up to the various sections of the chiefdom to decide if they wanted to be a part of the chiefdom or not.(57) The main objections which emerged from the approximately seventy five 'Hebronites' present were in fact over the intervention of the N.A.D. in the affairs of the chiefdom. Levi Ntoane, one of the leading figures of the Hebron opposition asserted that the problems being experienced could only be resolved if they were sorted out within the chiefdom through the proper customary channels. He suggested that the root of the conflict amongst the Kwena ba Mogopa lay in the chief's failure properly to consult the various sections of the chiefdom.

> "When a man has bitten a piece of iron he never opens his mouth. Have our chiefs bitten a piece of iron? Since 1903 we are waiting for our chiefs. Now we are told we will meet white chiefs at Rustenburg ... we don't believe anything will be done for us ... we are afraid power will be taken from our chief. Let us first speak to our chief before meeting at Rustenburg ... we must first discuss it amongst ourselves."(58)

Implicit in Ntona's statements was both a degree of suspicion of the N.A.D.'s intentions as well as a loyalty to the customary methods of tribal government. He suggested that it was the abuse of these methods which were the source of the conflict. His concern was definitely not that the chieftaincy should be deprived of its institutional authority, but rather that this authority should be correctly exercised.(59)

These sentiments were echoed by other members of the opposition. Johannes More, directing his comments to Sub-Native Commissioner Hemsworth stated:

> "We are the servants of our chief ... What you have said to us today are 'grand words'. That is how things should have been told to us from the beginning. The Bakwena are not against their chief only he must treat us properly ... We want to know how it is we are still fighting with this debt ..."(60)

Another of the malcontents, Nicodemus Masilo further corroborated these views;

> "Our chiefs today are under another government. We want our chief to call us together. We know nothing about the farms of Bethanie and Jericho. Our chief should tell us. If he tells us we will stand by him."(61)

To the surprise of the Native Affairs officials there was at this stage no apparent demand on the part of the Hebron malcontents for a formal division of the chiefdom. The sentiments of the meeting on the central issues placed before them were summed up by Ephraim Mogapi, another prominent member of the opposition. He said:

> "Jericho belongs to Jericho, Bethanie belongs to Bethanie and Hebron belongs to Hebron. We don't want to be forced into anything, that is not clear to us. We agree for all land to be made into one, but Bethanie and Jericho must first finish what they have done."(62)

At the Bethanie meeting which followed on the 11th of April 1924, approximately 130 representatives of all the sections of the

chiefdom attended.(63) There was still no lobby at this meeting for formal division of the chiefdom. Nonetheless, chief J.O.M. Mamogale made a strenuous plea that the chiefdom remain unified. His main concern, was that the various sections of the chiefdom be in a position to contribute jointly to eliminate the tribal debt. He suggested that this was as much in the interests of the Hebron grouping as any other section of the chiefdom.

> "One section can appeal to another section of the tribe for assistance. We have the right to call on the other sections to assist ... Hebron are hopeless as they are in debt ... If the government wish to split us up then these three sections cannot assist each other and I ask the government not to split us up."(64)

The only other suggestion to come out of the Bethanie meeting was that 'the government' play more of an active role in providing financial support thereby proving its good intentions instead of only 'assisting us by word of mouth.'(65) In fact it appears that suspicion of the intervention of the N.A.D. in the 'affairs of the tribe' was the primary motivating concern of the Hebronites and the delegates from Jericho.

The effect of these meetings was that the chiefdom would remain unified. The Bethanie meeting ended with a tribal resolution stating that all the farms in question be registered in trust for the whole chiefdom.(66) At this stage it appeared that the opposition groupings in Jericho and Hebron were either unconcerned or unaware about the legal implications of this resolution. However, if the legal formalities of land registration were of

little concern to them, the practicalities of financial responsibility for these farms certainly were not. Although the formal division of the chiefdom appeared not to be of strategic importance to the malcontents at this point, they most definitely were concerned with establishing a degree of independent control over their sectional resources. Finally, if the leadership of the Hebron and Jericho opposition expressed themselves as loyal to customary forms of tribal government, this did not soften their resentment of the 'abuse' of his chiefly authority by J.O.M. Mamogale.

Ultimately the concerns of the Hebron opposition in particular, were very practical. They were unwilling to contribute extremely scarce financial resources to ventures which offered them few or no material benefits. Neither the spate of 'tribal' meetings, nor the tribal resolutions which resulted, nor the interventions of N.A.D. officials, effectively offered any solutions which promised to resolve these grievances. The passive resistance of the Hebron and Jericho section, thus continued to express itself through widespread refusal to contribute to tribal levies. A £6 levy endorsed by the chief and the 'full tribal council' at Bethanie on the 26th June 1924, had by March 1925 resulted in the collection of just 'a few hundred pounds'.(67) This suggests widespread popular support in the households of Jericho and Hebron for the levy boycott.

In January 1925, John Reid, the seller of the farm Elandsfontein, obtained judgement in the Supreme Court against Chief J.O.M. Mamogale who was held liable for the debt of £11 000.(68) By the

end of February 1925, as a result of the continued failure of the tribal levy, Reid's lawyers threatened to execute tribal land in lieu of the outstanding part of the purchase price for the farm.(69) At this point the chief appealed to the N.A.D. to extend a loan to the Kwena ba Mogopa chiefdom in order to off-set the debt.(70) The N.A.D., on discovering that none of the location land was legally inalienable nor protected against sale in execution, negotiated a loan from the African Board of Executors and Trust Company Limited for £11 500 on the first mortgage of ten 'tribally owned' farms.(71) All of the Hebron and Jericho farms were amongst the ten put up for mortgage.

All this loan achieved was to replace one creditor with another and to buy time for the Kwena ba Mogopa. The repayment of the loan at £500 per annum with interest, depended on the payment of yet another tribal levy which was duly promulgated.(72) Furthermore, the farms of the Hebron and Jericho sections, appeared to be under greater threat than had previously been the case. Once again the N.A.D. proved itself to be either oblivious to, or disinterested in the material grievances which underlay the discontent within the chiefdom. However, if the Native Affairs officialdom had previously been indecisive about the most appropriate strategy of dealing with the dissension in the chiefdom, at this point they devised an assertive approach which was to prevail for the rest of the period under review. Native Commissioner, Howard Rogers claimed:

> "It has in the past been made very clear to the natives that in the opinion of the Department the legal position is that the Bakwena as a whole are

> responsible for each of these transactions and no one section can disclaim responsibility. Under the law as it stands at present, it would appear competent for the chief of a tribe, without reference to the tribesmen, but with the approval of the Executive Council under Law 3 of 1898 (which was granted in respect of Elandsfontein and Nooitgedacht purchases) to bind the tribe as a whole."(73)

In view of the decision not formally to divide the chiefdom, the N.A.D. clearly undertook to uphold the 1908 decision of the Supreme Court (Petlele versus Minister of Native Affairs), which stipulated that according to 'Native law and custom', no section of a chiefdom could independently hold land whilst remaining an integral part of the chiefdom.(74)

These developments in early 1925, flew directly in the face of Mamogale's opponents at Hebron. In February 1926 they took John Reid and Chief J.O.M. Mamogale to the Supreme Court in an attempt to have the sale of the farm Elandsfontein set aside.

In the final analysis, the national priorities of N.A.D. policy prevailed in dictating the proposed solutions to local circumstances. The earlier suggestions of dividing the chiefdom as a solution to local fiscal and political problems were quickly shelved (mainly due to the fact that once this option had been rejected by members of the chiefdom, it no longer offered a solution) and were replaced with the 'priorities' of segregation : 'tribal unity' and 'tribally-based' communal ownership of land.

II 'The Tribe is the Government of the Tribe' - Democracy and Autocracy in 'Customary Law'

The basis on which the Hebron plaintiffs attacked the sale of Elandsfontein is particularly significant. They alleged that according to 'Native' law and custom, before a chief could buy any fixed property and purport to bind his followers, certain formalities had to be complied with. They claimed that the chief was obliged to consult not only his legotla, but the 'whole chiefdom' assembled in pitso. The plaintiffs claimed that this had not been done in the case of Elandsfontein and that therefore they could not be bound by the contract of sale between J.O.M. Mamogale and John Ormiston Reid.(75) Alternatively, the Hebron members claimed that the chief failed to comply with all the conditions of the customs of chiefdom in that he only called together a pitso of one section of the chiefdom, at Jericho. On this basis the plaintiffs alleged not only that the contract was not binding on the Hebron section, but that the contract was entered into on behalf of the Jericho section only. Furthermore, they claimed that the potential sale in execution of Hebron farms by John Reid, constituted an 'interference with the rights' of the Hebron section from which they stood to suffer 'irreparable loss'.(76)

Mamogale as defendant alleged that the chief of the Kwena ba Mogopa had, according to well-established custom of the chiefdom, full power and absolute discretion to enter into and to bind the whole of his tribe by a contract for the purpose of land transactions. He claimed that it was not necessary to summon or to obtain the approval of a pitso or each of any section of the tribe.(77)

As in the case of the Fokeng trial, the court was required to rule on how customary tribal law was properly constituted. However, in this instance, apart from having to deal with voluminous conflicting evidence on the relationship between the chief, the legotla and the pitso, the court was also called upon to define which were the legitimate 'customary processes' for land transactions. Ultimately the central issue at stake was the chief's right to bind members of the chiefdom to financial commitments about which they had not been consulted. For the Hebron plaintiffs, this question over their democratic rights within the government of the chiefdom, was inextricably linked to their quest for independent control over the material resources of their particular section.

Despite the initial confusion within the N.A.D. over the best solutions to the financial crisis in the Kwena ba Mogopa chiefdom, it is still somewhat, surprising that, in contrast to the Fokeng trial, members of the Department led evidence for both the plaintiffs and the defendant.(78) The first N.A.D. official to lead evidence for the plaintiffs was Ernest Thomas Stubbs.(79)

Stubbs began his evidence by outlining the historical autocracy of African chiefs. He suggested that this was based on the military forms of political organisation of chiefdoms in a state of almost perpetual warfare.(80) However, he went on to point out the 'disintegrating influence' of white civilization and colonisation on tribal government, and in particular on the autocratic authority of chiefs.(81) As a consequence, within African chiefdoms ...

> "... Ever since we have had a civilized government operating within the Union of South Africa, there has been a steady modification in the direction of a greater democracy"(82)

Stubbs went on to assert that:

> "This tendency has been since Republican times. The tendency of administrations has been to encourage a form of autocratic control among the Natives, because it simplified administration as far as the Europeans are concerned."(83)

He concluded by contrasting this 'convenience of native administration' with 'the reality' of "a steady whittling away of the chief's powers and a greater move towards democracy - that is, the will of the tribe"(84) Stubbs suggested that the 'will of the tribe' was represented through the legotla ('men of royal blood') and especially the pitso, which he defined as a meeting of the whole tribe summoned through the headmen or petty chiefs.(85) He went on to assert that one of the fundamentals of customary law in 'modern times', was consultation of the tribe through the pitso.(86)

On the central queston of land purchase, Stubbs asserted that the "acquisition of fixed property is a modern development" amongs Africans,(87) and that the purchase of land "is a very modern growth".(88) On this basis, he expressed the view that a chief ... "cannot possibly buy (land) without the consent of the tribe."(89) In fact, Stubbs claimed that virtually every financial transaction within a chiefdom required the approval of the pitso, and that there could be no question in this regard over an £11 000 land deal.(90)

> "Purchase of farms without a pitso being called, in my opinion, would be contrary to native law and custom."(91)

Stubb's evidence in principle advanced the case of the plaintiffs. He did not, however, acknowledge the Hebronite's rights as a section of the chiefdom, and stated that he had never heard of a section of a 'tribe' holding porperty apart from 'the tribe itself.'(92)

Stubbs' views were supported in the evidence of both Henry Aston Key, the Sub-Native Commissioner for Johannesburg, and Clifford Harries who was the Sub-Native Commissioner for Hammanskraal and who had been directly involved with both the Hebron and Jericho sections over the purchase of Elandsfontein.

Both Harries and Key supported the view expressed by Stubbs, that the past autocracy of chiefs was subject to the modification of customary law through its subjection to 'civilized government' and the cessation of inter-tribal wars.(93) Both witnesses suggested that there was a resultant 'tendency to democracy' within African chiefdoms in the 1920's.(94) Key went on to suggest that this was even more the case in Christianised communities as "Christianity is democratic".(95) He noted that the Kwena ba Mogopa was a predominantly Christian community and claimed that this factor, amongst others, influenced the methods of tribal government within the chiefdom.

> "From my dealings with these people, I gathered the fact that Mamogalie's people were much more

> advanced that others, and Mamogalie (sic) was also much more advanced in his administration ... I think it is a well known thing that the headmen of the chief's kraal are appointed to that place by the people of Mamogalie. This chief is less autocratic than others."(96)

Clifford Harries, in comparing the administration of Isang Pilane amongst the Kgatla with that of Mamogale, asserted that there were substantial differences in the customs prevalent in these two chiefdoms. This was based on the fact that the 'precedent of consultation' established amongst the Kwena ba Mogopa had not been 'laid down' in the Kgatla experience.(97)

Harries, like Stubbs, claimed that the processes involved in land transactions had only become established during the period after white colonisation.(98) He went on to suggest that within the Kwena ba Mogopa chiefdom, the precedent of 'consultation' over land transactions was firmly established.

> "... it seems to me native custom is a series of precedents and when, through the advent of civilization, land had to be purchased,; and not taken, it was necessary to establish a precedent, and the chief established that precedent by saying 'I consult my people on the question of land,' and the natives have accepted his precedent that the tribe shall be consulted and they have acted upon it."(99)

Both Harries and Key also pointed out that the N.A.D. encouraged this process of consultation.

> "The policy of the Native Affairs Department is to get the chief to consult his tribe. I agree with Major Harries on that point; we have instructions to do it. In matters of buying land

> they told us they would not accept the sale unless it was signed by the chief and headmen - signed by as many as we could get to sign."(100)

The two N.A.D. officials differed slightly over what form this consultation ought to have taken. Key claimed that the established customary precedent dictated, that for the purpose of buying immovable property, the chief was obliged to call a pitso of the people and that "the pitso was the deciding factor as to whether the land was bought or not".(101) Harries, on the other hand, claimed that "with his legotla, prima facie, the chief can do anything."(102) He continued:

> "... supposing Mamogalie (sic) consulted his full legotla, including the bana ba legotla and the Kgosana (headmen - G.S.), there would be no necessity to consult a pitso on the purchase of a farm."(103)

On the specific purchase of the farm Elandsfontein, Harries acknowledged that a pitso of the Jericho section had been held in June 1921. At this pitso a vote was taken to buy the farm.(104) However, no discussion took place at this pitso over who would be responsible for paying for the farm.

> "It was taken for granted that the Jericho people were in need of a farm and would buy the farm."(105)

Immediately after the Jericho pitso the chief Mamogale went to sign the deed of sale.

For Harries, the implications of this series of events in the Kwena ba Mogopa Chiefdom were particularly serious. As Sub-Native Commissioner for Hammanskraal both the Hebron and Jericho sections of the chiefdom fell under his jurisdiction. He asserted that the two sections each had their own legotlas and their own pitsos and that they were identifyiably separate entities which were linked within the chiefdom through the chief.(106) On this basis, Harries claimed that the failure by Mamogale to consult the Hebron section excluded them from the purchase of the farm and therefore from the resultant financial liability. In this regard Harries asserted tha there had been insufficent consultation over the purchase of Elandsfontein.

> "So far as I know neither the whole council, nor the whole legotla nor the whole pitso was consulted."(107)

The evidence given by the N.A.D. officials was broadly corroborated by several members of the Hebron community. The first of these to give evidence was Willem Monaisi.(108) Monaisi's central claim was that the chief was obliged to consult the pitso before embarking on any land deal. He quoted an example during the reign of Johannes Mamogale where the pitso had refused to approve a proposed land purchase on the basis that the cost of the farm in question was excessive.(109)

Monaisi was also emphatic that the chief could not bind members of the chiefdom without consulting them. By contrast, he claimed that a particular section of the chiefdom could buy land for itself

without necessarily consulting the chief.(110) The only precondition in such a case was that a local pitso had to beheld in the branch of the chiefdom concerned.(111) Monaisi claimed that under these circumstances a branch of the chiefdom could appeal to other branches for assistance to meet its debts, but that such an appeal could legitimately be refused.(112)

Monaisi was followed by a string of witnesses from Hebron, all of whom described a simple but uniform process of consultation which they claimed necessarily preceded any land transaction. All of these witnesses outlined a procedure which dictated that first the chief had to consult the bana ba legotla and headmen or sub-chiefs representing the outlying branches of the chiefdom. Thereafter, the 'sub-chiefs' of each section of the chiefdom would be informed and through a local legotla meeting, a pitso had to be called in each branch.(113) Without exception these witnesses claimed that the pitso, as the general assembly of the chiefdom or sections of the chiefdom, had the right under customary law to veto any decision to purchase immovable property. Thus Simon Makoena, a headman from Hebron, stated that:

> If the pitso decides not to buy, there is no purchase. If the chief and legotla wish to buy and the pitso does not wish to buy, there is no purchase."(114)

Similarly, Joseph Motsepe claimed that "... the final decision to buy or not to buy rests with the tribe ... the decision of the tribe is final".(115) Motsepe added that if 'all sections of the tribe'

are not consulted via the pitso, then they were not obliged to pay for land purchased and nor could their property be confiscated in lieu of payment.(116)

The main thrust of the Hebronite's evidence was the assertion that under customary law, the power and authority of the chief was subject not only to the legotla, but especially to the 'will of the tribe' constituted through the pitsos of the various branches of the chiefdom.(117) On this basis it was claimed that chief J.O.M. Mamogale had been guilty of a breach of customary law. This was alleged, in the first instance, because of his failure to consult the Hebron section of the chiefdom over the purchase of Elandsfontein; in the second instance because of his subsequent insistance that Hebron be held responsible for paying off the debt; and finally because he had jeopardised the Hebron farms by involving them in a mortgage bond which left them in risk of being confiscated in lieu of payment. On the basis of Mamogale's breaches of customary law, the plaintiffs charged that the sale of Elandsfontein be declared null and void. As Gideon Thipe, a resident of Hebron, claimed:

> "The chief of the tribe is not above the laws of the tribe. If the chief breaks the laws of the tribe he is tried by the tribe (and can be) ... punished."(118)

Fanuel Maseke, a headman from Hebron, summed up the sentiments of the plaintiffs when he said in evidence that:

> "The laws remain the same, but the chiefs make the trouble, the customs are the same."(119)

In backing up both Maseke's statement quoted here, as well as the charges against J.O.M. Mamogale, several witnesses referred to land purchases in the past, (particularly under the chieftainship of Johannes Mamogale) where the correct 'customary' procedure of consultation had been followed. They claimed that as a result, all the sections of the chiefdom had contributed to quickly eliminating the debts resulting from land purchases which had been approved by 'the tribe'.(120)

Further evidence was led for the plaintiffs by Micha Seleitse a former resident of Jericho. Seleitse claimed to "... have left native rule ... I now live under the White man's rule."(121) He said that he 'left the chiefdom' in 1911:

> "I did not care to remain under native rule; they (the chiefs - G.S.) were getting too autocratic ... I did not like native rule ..."(122)

Seleitse confirmed the traditional procedure of consultation outlined by other witnesses and contrasted it with the increasingly autocratic behaviour of chief Mamogale. He asserted that the pitso was the ultimate decision making body within the chiefdom and that through the pitso ...

> "The tribe is the government of the tribe."(123)

Seleitse identified the pitso as a means through which the chief gained the consent of the people, as opposed to a forum through which he merely informed them of his own decisions.(124) In order to prove this point, Seleitse quoted examples where the pitso had

thwarted chief Johannes Mamogale's attempts to buy land, on the grounds that the farms proposed for purchase, either had too little water on them, or too little arable land.(125) Seleitse did add that only the chief and the legotla had the right to call a pitso together.(126)

When questioned about the Elandsfontein purchase, Seleitse noted that only one pitso was held (in Jericho) prior to the purchase of the farm. On this basis he said that Jericho was responsible for meeting the purchase price of the farm and that none of the other sections of the chiefdom could be compelled to pay for the land.(107) Seleitse strongly emphasized the democratic 'rights' of sections of the chiefdom, and suggested that at very least the headmen of outlying branches of the chiefdom had at all times to be consulted.(128)

The final source of support for the Hebron plaintiffs came from two 'civilized natives', Dr. Modini Molema and Solomon Plaatje. Molema simply asserted that according to customary law, the chief and the legotla would always submit to the 'will of the people'. A wise chief would not impose his will on the majority if the majority were opposed to him, and the chief was "not above the law of the tribe" and could be tried and punished.(129) Plaatje's evidence was considerably more detailed and warrants further discussion.

Plaatje began by noting the extent to which customary processes had been modified by the advent of colonisation. He also pointed out that the influence of white 'civilization' was inconsistent and thus

resulted in substantial differences in local conditions and prevalent customary practices within different chiefdoms.(130) He went on to reproduce much of the evidence which he had led in the trial of the Fokeng 'rebels'. He suggested that all Tswana chiefdoms were governed jointly through the chief and the legotla, but emphasised that the chief was accountable not only to the legotla, but to the members of the chiefdom as a whole. Plaatje claimed that within 'native custom' it was entirely legitimate for a chief to be tried and punished by a legotla and he could even be deposed by the 'tribe as a whole'.(131) He concluded that:

> "A wise chief deferred to the wishes of the tribe. It would not be constitutional for him to go contrary to their wishes; there would be something like a revolution."(132)

Plaatje launched a tirade against undemocratic and autocratic methods of tribal government and insisted that these methods were incompatible with Tswana custom.

> "When a man acts as an autocrat, he is an autocrat on his own according to Bechuana custom."(133)

Plaatje extended his understanding of customary government to the sphere of land transactions. He claimed that whilst the chief and the legotla could independently take any actions which represented a 'continuation of tribal policy', they could not undertake any innovative measures without consulting the pitso.

> "The buying of farms in an innovation ... as far as I have seen, they have always consulted the people."(134)

On this basis Plaatje asserted that:

> "The necessity of the chief and legotla getting consent of the pitso before buying something for the tribe has always been native law and custom."(135)

He went on to corroborate the evidence of the previous witnesses who had outlined the consultative procedures which had to be undertaken before the chief could contractually bind members of his chiefdom.(136) On this basis Plaatje supported the plaintiff's central contention that they could not be compelled to contribute towards the purchase of a farm over which they had not been consulted.

> "... there can be no taxation without representation - no money obtained from individual members of the tribe unless they have a say in the matter ... You cannot consult them individually, but as a pitso. They must be consulted as a pitso, before any fresh tax is levied."(137)

Plaatje affirmed the specific sectional claims of the Hebron malcontents. He stated that no section of a chiefdom could be expected to fund land transactions about which it had not been consulted. Furthermore, he strongly asserted the political and administrative independence of the Hebron and Jericho branches.

> "Every offshoot of every big tribe becomes an independent unity. It is for that purpose that they separate from the main branch, in order to establish their own kingdom."(138)

Plaatje was also explicit in his acknowledgement of the material interests of these independent sections of the chiefdom. He said that 'tribal property' could only be defined as such, if the entire tribe had been consulted over its purchase and had contributed to the purchase price. On this basis he suggested that groups of individuals or sections of the chiefdom, which had purchased land independently, had the right to exculsive use and control of these resources.(139) Plaatje concluded that the principles of consultation, as well as consultative procedures for both the acquisition and allocation of 'tribal resources', were implicit in the African customary legal system. Furthermore, he suggested that it was only adherence to these procedural rules which obviated the danger of confusion and conflict over who had access to what resources.(140)

Plaatje concluded his evidence by rejecting suggestions that the demands of the plaintiffs were either indicative of an attempt to undermine the power of the chief or of a 'growing individualism'. He reiterated the point which he asserted during the trial of the Fokeng rebels, that 'native government' was traditionally democratic.(141) Plaatje suggested that the actions and declarations of the Hebron malcontents, rather than being classified as reflecting a 'tendency to democracy', were better understood as a return to 'customary law' in its original form.(142)

If Plaatje's evidence reflected a somewhat romanticized interpretation of customary law,(143) it nonetheless gave expression to both the ideological and material aspirations of the

Hebron opposition. For them, an interpretation of Tswana law and custom which asserted democratic processes as fundamental, was an ideological vehicle through which they expressed their challenge to centralized control over locally available resources. The Hebronites' challenge to chiefly authority, rooted in the familiar issues of control over land and available funds, was in many respects more fundamental than that of the Fokeng dissidents. None of the Hebron opposition leaders were members of the royal family and none sat on chief Mamogale's bana ba legotla. As a consequence no opposition leadership figure emerged who legitimately stood to gain control over the chieftaincy itself. It is therefore not surprising that the challenge to centralized chiefly control went beyond an assertion of the rights of the bana ba legotla, or even the legotla, in relation to the chief. Unlike the Fokeng example, no succession disputes emerged, and the ideological challenge to chiefly control was expressed in terms of the rights of 'ordinary tribesmen' who were represented in the local pitso of outlying branches of the chiefdom. Nonetheless, as in the Fokeng experience, these materially rooted challenges and aspirations, found ideological expression in the contestation of customary rules and processes.

It was on a different interpretation of these rules and processes that Mamogale's defence was grounded. The first witness for the defence, John Glen Leary, a former magistrate in the Transvaal, set the tone by presenting a static and formalistic interpretation of customary law. He claimed that there was no difference between the right of chiefs in different chiefdoms, and defined "native custom"

as "the custom before they were annexed by us."(144)

> "The power of the chief was autocratic ... Talking of custom before the advent of the white man, I say the power of the chief was absolute ... The chief is not to my knowledge under the native law."(145)

Leary asserted that the chief could not be tried or punished and that he was in no way accountable to the legotla which was merely an advisory body.(146)

On the question of land purchase Leary claimed that there was no established custom which dictated that the chief had to consult anyone. He rejected the notion that 'a precedent established a custom' and claimed that the process of consultation over land purchase was a requirement of the N.A.D. and not a 'native custom'.(147)

> "If the Native Affairs Department require certain formalities before the Governor-General will approve of a purchase of a farm by a tribe, I do not think that would be modification of native custom in any way. The customs would remain, but in order to meet the requirements of the Native Affairs Department he would carry out their instructions. It would not be a modification of the chief's power ..."(148)

Leary claimed that the chief was in no way obliged to consult the pitso over anything, and suggested that pitsos were held to inform people, rather than to consult them. He denied that votes were ever taken in a pitso and was emphatic that:

> "You do not consult every Dick, Tom and Harry in the tribe ... the people ... means the chiefs and headmen of the tribe."(149)

Leary claimed that just as the legotla merely advised the chief, so the pitso acted as a reference point for the legotla. If the chief consulted his legotla over a land purchase then that would satisfy both the prerequisites of the N.A.D. and any customary law.(150)

> "It is not the majority who prevail; it is the chief's will."(151)

Leary concluded his evidence by asserting that the objections to chief J.O.M. Mamogale's rule were indicative of a challenge to the customary powers of the chief on the part of an educated minority within the chiefdom.

> "... there has been a tendency on the part of the educated native to try to do away with the power of the chief - a kind of Bolshevik spirit amongst them or a spirit of insubordination that prevails. They want their little parliament. The idea of not desiring to acknowledge the chief's power is mostly due to the educated natives, who realise they have certain rights of their own and cannot be bound down by ancient custom, and they try to adapt themselves to our mode of government. But the custom is still there."(152)

Leary along with Donald Hunt, the S.N.C. for Rustenburg, and Harry Denton Hemsworth, the S.N.C. for Pretoria, had all testified against the Fokeng 'rebels' in May 1925. Once again both Hunt and Hemsworth corroborated Leary's evidence. Both N.A.D. officials reiterated points concerning the arbitrary and autocratic powers of chiefs.(153) Hemsworth was especially emphatic that these powers pertained to the processes of acquisition and distribution of landed property.

> "The administrative power is vested in the chief. It is competent for him to bind his tribe acting on his own initiative, he can do as he likes. It makes no difference whether it is an important or unimportant matter. If a chief wanted to buy a farm for his tribe, there would be no necessity for him to consult and get the consent of anybody - not according to their custom; it might be expedient for him. If the tribe consists of various sections I do not know of any custom that it is necessary for him to obtain the consent of the various sections by means of a pitso before he enters into any transaction."(154)

He continued:

> "A present day chief can dispose of his land as he pleases, according to native custom; if he is an autocrat he can do as he likes. He has the power according to native custom."(155)

Hunt related numerous examples of land purchase without consultation. He suggested that pitsos were called to inform the people rather than to consult them,(156) and Hemsworth claimed that both in practice and within customary law, "voting was unknown amongst the natives".(157) Both officials did acknowledge that

the N.A.D. itself stipulated that "no land transaction is allowed to go through ... unless a meeting is held or the chief's councillors sign a resolution".(158) However, they suggested that at most it was expected to gain the approval of the chief's legotla. Furthermore, both witnesses noted that these regulations were imposed by government rather than being established principles of customary law.

> "The Government requires certain formalities to be complied with. But the native custom remains the same."(159)

On the question of the rights and claims of specific branches within the chiefdom, Hunt denied completely that any of the five sections of the Kwena ba Mogopa chiefdom could be identified as a distinct 'tribal entity'.(160) On this basis he asserted that all land, whether registered in favour of one or all sections of the chiefdom, was in reality 'tribal property'.

> "No matter where property is bought it belongs to the tribe ... If Jericho section were to buy a farm the whole tribe is liable; it is a tribal debt."(161)

Hunt pointed out that because all land was 'tribal property' the chief, as 'father of the tribe', could dictate who was responsible for meeting the cost of land purchase. No member of the chiefdom could claim immunity.

> "His (the chief's - G.S.) discretion is not limited in any way. In buying a piece of ground adjoining the Southern end of his tribal ground the chief, in finding the people living near

> there not being able to pay for it, can tell the others to pay for it or assist to pay for it. The mere fact that a section paid for land does not mean they own the land - the tribe does."(162)

Both Hunt and Hemsworth described the series of meetings which took place in the Kwena ba Mogopa chiefdom concerning the purchase of the farm Elandsfontein. Both claimed that the process of consultation had been adequate on the basis that the central legotla at Bethanie had approved the transaction.(163) They went on to point out that both the Hebron and Jericho sections were represented on the legotla by some of their respective headmen. In the case of the Hebron section, they pointed out that Abraham Mamogale, the twin brother of the chief and sub-chief at Hebron, was amongst those who had signed the various tribal resolutions concerned with the purchase of the farm and subsequent tribal levies.(164) Hemsworth went on to describe further meetings relating to the state of the tribal finances, claiming that at no stage had the Hebron malcontents challenged the legitimacy of the purchase itself, but had only expressed their opposition to having to contribute to meeting the debt incurred.(165)

Hemsworth concluded by suggesting that the resentment of 'traditional' chiefly authority expressed by the Hebron section, was the product of the prevalence of "a large number of educated natives" who "have a fairly good idea of mental figures"(166) When it was suggested to him under cross-examination that his particular interpretation of 'tradition and custom' was little more than guesswork, Hemsworth responded by saying:

"I suppose all tradition is surmise."(167)

Chief J.O.M. Mamogale was a lot less willing to concede to any ambiguity over his customary powers as chief. When questioned about what power he had to enter into the deed of sale for Elandsfontein, he answered:

"My power as chief."(168)

Mamogale was the first to admit that no pitsos had been called over the purchase of the farm. He claimed that there was no necessity, according to customary law, for him to get the consent of members of the chiefdom before buying land on their behalf.

"I notify them; I do not ask them."(169

Mamogale claimed that his only responsibility was to 'inform' members of his legotla of his decisions and actions. He said that the councillors and headmen on the legotla represented all the sections of the chiefdom. He also claimed that it was entirely up to his own discretion to choose who should pay for any property purchased, but asserted that irrespective of who paid for the property, "all land belongs to the tribe".(170) This latter point was central to the chief's evidence to the court. Mamogale was clearly conscious that his authority as chief rested in no small measure on his control over the acquisition and allocation of land. He defended most vehemently his 'customary rights' to allocate these

resources and claimed that as 'father of the tribe' he was only bound by what he interpreted to be "the best interests of the tribe".(171)

J.O.M. Mamogale was supported by the evidence of his uncle Daniel More. More agreed that the chief was not obliged to consult the pitso over land transactions.

> "It is not our custom for a chief to call all his people together before buying a farm."(172)

He also provided an alternative set of procedural rules governing these land transactions to that described by the plaintiffs. More claimed that prior to signing a deed of sale, the chief would inform his headmen and his legotla. However, More insisted that this was not obligatory. Furthermore, the chief only treated the opinions of legotla members as 'advice' and despite the fact that they represented all sections of the chiefdom, he was not obliged to conform to their views.(173)

Once the transaction was formally completed, the chief had merely to inform headmen and legotla members of the purchase price and the amount members of the chiefdom were expected to pay. It was then up to these 'under-chiefs' to inform the members of their respective sections.(174) More went on to claim that Mamogale had informed his legotla at Bethanie of the purchase of Elandsfontein, but that even if he had not done so, the customary legality of the purchase was unchallengable.(175)

More also disputed the notion that any section of a chiefdom could claim exclusive control over a piece of land. He suggested that theoretically all sections and members of the chiefdom had the right to utilize 'tribal land'. He gave some hypothetical examples to prove his point.

> "I have forty head of cattle. If I wish to move with my cattle to Jericho (from Bethanie - G.S.) I must ask permission from the chief; if he gives me permission I can go. He does not consult anyone before giving me that permission."(176)

In another example he remarked that if locusts destroyed the grazing in one part of the chiefdom, all the cattle would be moved to another section ...

> "... The Hebron cattle may be turned onto our ground and graze there, at Bethanie."(177)

Without exception, the witnesses for the defendant identified the customary rights of the chief as providing absolute control over both the acquisition and distribution of land. They provided an alternative interpretation of customary legal procedures, which was rooted in the rigidly defined, non-negotiable authority of the chieftaincy. On this basis, they attempted to rebuke the Hebronites' claims, not only to a degree of political and administrative autonomy, nor even just to exclusive control over vital material resources, but also to the ideological legitimacy which the Hebronites had attempted to assert via a 'democratized' interpretation of customary tribal government.

The ideological dispute over customary politico-legal procedures had become a vehicle for the expression of conflict over the purchase of Elandsfontein, which at origin reflected a contest over control of scarce material resources. This ideological dispute was fought out not only within the Kwena ba Mogopa chiefdom, but within the N.A.D. as well. The resultant difficulties which this posed for Supreme Court Judge De Waal were acknowledged by him in his judgement. He quoted extensively from the judgement of Tindall and Curlewis in the Fokeng case(178) repeating the Judge President's dissatisfaction at the court having to decide what 'native law and custom is.'(179) De Waal reiterated Curlewis' appeal that 'native law and custom' be codified in the Transvaal as it was in Natal "... in a hard and fast law, and not left to the unsatisfactory proof ... of native evidence."(180)

Nonetheless, after summarising the evidence led, De Waal concluded that:

> ".. there has been a steady and ever growing tendency towards democracy due to the influence of the presence of the educated native tribesman on the one hand and to the contact with European civilization and its established democratic forms of government on the other ... But even in respect of tribes where democratic influences have been longest at work, the chiefs authority is still supreme in the sense, at all events, that there is no obligation on him, in carrying out governmental functions - judicial, legislative and executive - to consult his people assembled in pitso. At most he consults his legotla, composed of his blood relations, wise men of his tribe and other headmen. That he is guided by the advice and counsel of his legotla is certain and, in the nature of things inevitable. Whether, however, he is obliged to act on that advice is doubtful, to say the least of it."(181)

De Waal suggested that 'referendum type' consultation of the pitso was impractical, that Mamogale had duly consulted his 'supreme legotla' and that the purchase of Elandsfontein had received the sanction of the Governor-General. On these grounds, he passed judgement that the purchase of Elandsfontein had been legally completed and that ...

> "... the persons who have ultimately to pay the purchase price and for whose benefit and use the farm was bought, the tribesmen, have no legal cause for complaint."(182)

De Waal dismissed any 'sectional' claims of the Hebronites by stating that the chief's legotla represented "not only the Bethanie section', but all the sections of the tribe."(183) Finally De Waal noted that the evidence showed that Mamogale as well as his father had previously purchased land without reference to either the pitso or the legotla. Predictably, the plaintiffs' action was dismissed with costs.(184)

III From Protest to Challenge - The Secessionist Movement

Whilst the Supreme Court judgement of February 1926 formally compelled the malcontents at Hebron and Jericho to comply with the levies imposed by chief J.O.M. Mamogale, in practice it appears only to have strengthened their resolve to resist the demands placed upon them. The period subsequent to the Supreme Court case witnessed the development of new and distinct oppositional strategies particularly on the part of the Hebron branch of the chiefdom.

Initially the malcontents took to petitioning the Prime Minister. In February 1927, members of the Hebron community, claiming to be 'headmen and members of the legotla at Hebron', sent a petition restating their grievances with J.O.M. Mamogale.(185) At this point, the central complaint of the Hebron section was that seven farms, for "the exclusive use and benefit of Hebron ... from time immemorial", were in danger of being executed as a result of the Elandsfontein debt.(186) The Hebronites reasserted the fact that they were not liable for this purchase on the basis that they had not been consulted. They called for a commission of enquiry into the chiefdom's affairs and requested that Mamogale be restrained from handling the chiefdom's finances.(187)

In response to the petition, chief Mamogale denied all the claims of the Hebron headmen. He reasserted that "all tribal land is communal" and that the mortgaged properties therefore belonged to the chiefdom and he denied that the petitioners "have any but a tribal interest in them."(188) However, Mamogale acknowledged that the only farms threatened under a mortgage bond, were those at Jericho and Hebron. He suggested that this was justified by the fact that the Hebron section of the chiefdom was responsible for the tribal debt as a consequence of their consistent litigation in the courts.(189)

Of particular significance was the fact that Mamogale challenged the credentials of the petitioners, claiming that few of them were actually members of the Hebron legotla. It was at this point that

it first appeared that a 'rebel' legotla had been established at Hebron.(190) Furthermore, Mamogale claimed that the leaders of the Hebron opposition, as well as many of their followers, had taken to absenting themselves from meetings called by him.(191)

As far as the N.A.D. was concerned, the refusal of the petitioners requests was a forgone conclusion. On the basis of the findings of Judge De Waal, the Secretary of Native Affairs asserted that:

> "... the interests of the tribe are sufficiently safeguarded under the existing law which provides that no contract or obligation entered into by a chief on behalf of his tribe shall be valid unless sanctioned by the Executive council." (Author's emphasis).(192)

Sub-Native Commissioner Hemsworth responded to the petition by claiming that:

> "It is quite obvious that the petitioners, who represent a small minority of the tribe and who are quite insubordinate, are attempting to obtain something which has been denied them by all the tribunals, from the lowest to the highest in the Union."(193)

The Jericho petitioners replied to the Secretary of Native Affairs through their attorney. They claimed that their views represented the majority feeling of both Jericho and Hebron. They strongly protested at being referred to as 'recalcitrant' and claimed that despite the findings of the Supreme Court it was they who were preserving 'tribal law and custom' in the face of J.O.M. Mamogale's abuse of it.(197) The Jericho complainants defended members of the Hebron opposition, claiming that the latter had undertaken to

"Look after the tribe's well-being where neither the chief or the N.A.D. did so."(198) Attorney Kleyn concluded his letter by writing that:

> "My clients wish me especially to say that they are peaceful and law abiding subjects and have not the slightest intention of creating unrest or a disturbance in the tribe, but only desire that justice should be done to them as members of the tribe and that where they have a just grievance the government as their Paramount Chief should come to their assistance and give them the necessary relief."(199)

Throughout this period widespread resistance to the payment of tribal levies continued. By February 1927 the combined tribal debt on the farms Elandsfontein and Nooitgedacht had increased to £16 850.0.0.(200) Within two years of the Supreme Court's decision it was clear that the debt had reached such proportions that the mortgaged land would not have realised the necessary cost and further land in the Bethanie section was consequently endangered.(201) It was equally clear to members of the N.A.D. that the government would have to come to the assistance of the Kwena ba Mogopa chiefdom. As a result it was suggested that a long term loan be extended to the chiefdom from the Native Development Account.(202) However, this resolved nothing as the resolution of the financial crisis was still dependent on the payment of levies by the members of the chiefdom.

Indeed, opposition resulting from the imposition of the tribal levies had, by May 1927, begun to take on new and (as far as the N.A.D. officials were concerned) startling forms. By this date several members of the chiefdom, who had for a number of years previously refused to list J.O.M. Mamogale as their chief when filling out their tax receipts, claimed the right to individually secede from his rule. These individuals claimed to be 'detribalized' and insisted that they could not be held responsible for the payment of any tribal dues.(203)

Of particlar concern to N.A.D. officials was the fact, witnessed by the Jericho petition, that this secessionist tendency was not merely an individualized response. At Hebron as well, the secessionist movement was gaining momentum. The opposition to Mamogale's control over Hebron was initially focused on his delegated sub-chief, Abraham Mamogale.(204) On the twenty fifth of October 1928, the leaders of the Hebron opposition wrote to J.O.M. Mamogale demanding Abraham's removal.

> "... for we as a tribe are worried of his ruling and therefore do not want him in Hebron anymore. This the word from the tribe and their headmen ... 15 days are being allowed to him for a period of notice."(205)

N.A.D. officials saw this letter as being rather threatening, but were reluctant to intervene because

> "... The direct request for Abraham's removal, having been made to the Head Chief, is evidence that tribal law is being followed."(206)

On these grounds it was strongly recommended to the chief that he go to Hebron to 'sort out the differences'.(207) Mamogale refused to go to Hebron and instead summoned the author of the letter, Seth Molefe, to appear before the Bethanie legotla.(208) Molefe in turn refused to appear at Bethanie despite a warning from the Additional Native Commissioner. that he was defying Mamogale's customary chiefly powers.(209) The N.A.D. official was still insistent that customary procedures be applied to resolve the situation and refused once again to intervene on the grounds that this would play into the hands of the malcontents and would

> "Alienate the prestige of the department in the eyes of the chief and the council and the loyal members of the tribe."(210)

By this stage the 'rebel' legotla at Hebron was holding regular meetings in defiance of both Abraham and J.O.M. Mamogale.(211) It was in the name of this legotla that the Hebron opposition finally responded by asserting their full independence of J.O.M. Mamogale.

> "The Legotla of Morula and its headmen say that you must know that from this day 15/1/29 we are out of your rule, Chief, do not look to us anymore."(212)

Complete division of the chiefdom, an option which had been turned down by the malcontents in 1924, had at this point become the explicit objective of the Hebronites.

In February 1929 the secessionists sent a delegation to the Additional Native Commissioner to request a N.A.D. appointed chief at Hebron. Their request was turned down and the Additional Native Commissioner suggested that the delegation approach Mamogale instead. He restated the fact that he was unwilling to intervene in any way "until their own law and custom had been observed."(213) Yet it was precisely because of the rigid and autocratic definition of 'customary law' which the N.A.D. and courts upheld, that the malcontents had become disillusioned with this path of action. Furthermore, the manipulative intentions of the N.A.D. officials involved were explicit in the departmental correspondence.

> "The disintegration of the BaKwena tribe is much to be deplored and it is felt that in the light of past experience that the authority of hereditary chieftainship must be upheld and that official cogniscance cannot be taken of sectional grievances ..."(214)

Dissatisfied with the intransigence of the Additional Native Commissioner, the Morula delegation turned to the Secretary of Native Affairs. The initial response from Secretary Garthorne was somewhat more realistic than that of his local subordinates, if not more concessionary. He suggested that an estimate of the relative liabilities of the various sections of the chiefdom should be framed with 'some view to parity of collection on these lines'.(216) Garthorne also criticized the local N.A.D. officers suggesting that whilst "following tribal procedures first is correct", it had to be remembered that "Hebron evolved as a mission station rather than as a location and therefore close official supervision is needed."(217) Finally, Garthorne mooted the possibility of a

'native council' being established at Hebron which, "in addition to its administrative functions will constitute a tangible and authoritative organ of representation".(218)

However, if Garthorne was more sophisticated than his subordinates in his approach to the N.A.D.'s handling of the problem, then he certainly was not any more sensitive to the fundamental material grievances which underpinned the political strife within the chiefdom. In this respect he offered the "Morula section" nothing tangible. Within six months the 'rebel legotla' submitted yet another petition, this time with over eight hundred signatures attached, restating their demands for their rights to secede and to elect their own chief. They also demanded the division of the chiefdom's immovable property and division of the tribal debt.(219)

By this time, several reports had filtered through to the Secretary of Native Affairs documenting the continued failure of levy collections not only in Hebron, but also amongst the Kwena ba Mogopa in the urban areas. These reports indicated active 'obstruction' of the levy collections, in particular, in Johannesburg.(220) This development is especially significant in as much as it suggests a significant level of involvement of migrants in the Hebron resistance.(221) Whilst it has proved difficult to trace any evidence of particular individual interests in the 'sectional' manoeuvering for control over 'tribal lands', the refusal on the part of wage earners to contribute to the 'collective purchase' of land is strongly suggestive of an assertion of individual or household control over hard-won migrant earnings. The active involvement of

migrants also to some extent explains the perceptions of those witnesses, (notably N.A.D. officials Leary, Hemsworth and Hunt) who blamed the dissension within the chiefdom on 'educated natives coming from the towns'.

By February 1930 the situation at Hebron was described by the additional N.C. as 'intolerable'.(222) As a consequence of the continual disregard for Mamogale's authority and the refusal by opposition leaders to attend his legotla when summoned to do so, the chief informed the N.A.D. of his intention to 'take action' against the Morula leaders in order to

> "... once and for all quash the 'rebellious' movement and bring to their senses those members who are being led astray ... (original emphasis)"(223)

No 'action' transpired, and after a further four months of conflict and dissent, Mamogale appealed to the Additional Native Commissioner to prohibit the Morula section from holding meetings without his or Abraham Mamogale's permission.(224) Two meetings were subsequently convened at Hebron by the Additional Native Commissioner at which the malcontents were warned about the illegality of their meetings and the seriousness of the impending bankruptcy of the chiefdom.(225)

By early 1931 there was no improvement in the situation and chief Mamogale was becoming increasingly insecure about his ability to control developments independently.(226) The N.A.D. finally stepped in, threatening the leaders of the Morula section with

removal and warning them that the N.A.D. was "not prepared under any circumstances to countenance a breakaway of the section of the Bakwena tribe".(227) The Secretary of Native Affairs also warned the Morula section that legislation had finally been enacted providing for criminal charges and punitive measures to be instituted against those defaulting on tribal levies.(228) These threats by the N.A.D. had no effect whatsoever, and in November 1931 it was finally decided to intervene directly in an attempt to discipline the 'rebels'.

On the thirteenth of November a contingent of six African constables was sent to Hebron with instructions to arrest twelve levy defaulters "as an example to all others"(229) After receiving a list of all the defaulters from sub-chief Abraham Mamogale, the police proceeded to arrest several leaders of the Morula section. The immediate consequence was that the police patrol was attacked by "a number of Native women" and was forced to release the prisoners.(230) A further party of white policemen then went to Hebron and rearrested the twelve defaulters, who were duly tried and convicted under the Native Tax and Development Act.(231) On the seventeenth of November it was reported that:

> "The secessionist section of the tribe, in consequence of the arrest of 12 of their number, announced that they would permit no ploughing to be carried out by the loyalist section until the convicted natives had been released from gaol and cattle had actually been outspanned by force and several minor clashes had taken place in the lands."(232)

The direct involvement of Abraham Mamogale in the arrests of the twelve levy defaulters, and the resultant intensification of the conflict at Hebron, tended to establish an immediate focal point of opposition for the Morula section, in the person of the sub-chief. On the twentieth of November the Additional Native Commissioner convened a meeting at Hebron which was attended by approximately 500 members of the chiefdom. He reported that he was 'surprised' to find that at least half of theoe present supported the Morula leaders.(233) At the meeting the 'single-minded' objective of the 'rebels' was the removal from Hebron of Abraham Mamogale. The Additional Native Commissioner suggested that as Abraham was a drunkard anyway, the chief should be instructed to remove him in an attempt to appease the Morula section.(234)

J.O.M. Mamogale was not convinced.

> "... in his opinion the action suggested by your department would not only strike a fatal blow at the institution of the chieftainship and demoralise the whole system of tribal rule, but would also fail to remove the present impasse and would, he fears, only intensify it ... the secessionists are only out to break away entirely from existing rule and have a division of tribal territory, thereby causing an absolute and irrevocable rupture of the tribe with the creation of a new ruling house."(235)

The chief assured the N.A.D officials that he was anxious to assist the government, but he could not accept the removal of his delegated representatives who were not responsible for the 'deplorable state of affairs'. The chief pointed out that Abraham had denied any involvement in the arrest of the twelve defaulters, and suggested

that an enquiry be instituted so as to give Abraham a chance to defend himself.(236)

Although the situation at Jericho remained relatively calm during this period, there emanated similar demands from there for the removal of Obed More, Mamogale's delegated headman from Bethanie.(237) The demands for the removal of Obed and Abraham were dealt with simultaneously in the N.A.D correspondence and were supported by the Additional Native Commissioner as the 'only way of appeasing the secessionists at Hebron and Jericho'.(238) He suggested that the removal of these two delegated authorities would be 'trouble-free' as Abraham was 'completely partial and fed into division' whilst Obed was 'simply apathetic'.(239) Nonetheless, Mamogale still refused to carry out the Department's instruction, and was rapidly losing favour in the eyes of the departmental officials.

> "This disintegration of the Bakwena tribe, its heavy liabilities and the general unsatisfactory position is attributable entirely to mismanagement by the Head chief and the Sub-chief and Headman referred to."(240)

In so saying, the Additional Native Commissioner virtually acknowledged all the claims of the Hebronites which had regularly been denied.

Within a week the S.N.A. wrote to Chief Mamogale instructing him to remove both Obed More and Abraham Mamogale. He condemned J.O.M. Mamogale's previous refusal to do so in particularly threatening terms:

> "... your reply not only indicates either contumacy or inability to carry out the responsibilities demanded from a recognised chief, but also appeals to the government for intervention into a matter which should be settled by the tribe itself. I have to inform you that it seems necessary for the government to review the position of yourself in relation to those natives."(241)

The Secretary of Native Affairs warned the chief that the government viewed the secessionist movement as the product of the latter's mismanagement. The chief again appealed for a full investigation but was instructed that this would simply 'backfire on him'.(242)

The Lutheran missionary, Behrens, who had consistently acted as Mamogale's adviser, was requested by the N.A.D. to intervene. Behrens met with the chief and convinced him that a departmental investigation would probably lead to his deposition. On this basis he received a reluctant assurance from the chief that the latter would ensure the resignations of Obed More and Abraham Mamogale. J.O.M. Mamogale remained adamant, however, that the resignations would result in "discrediting those of Royal Blood"(243) Nonetheless, within a week, Mamogale had received letters of resignation from both headmen.(244) At this stage Mamogale insisted that it was not possible for him merely to accept the resignations before 'consulting the tribe'. He claimed that, 'according to Native custom' he had to call meetings, first of the bana ba legotla, then of the headmen and finally of 'the tribe', before he could replace the two men concerned.(245)

It seems evident at this point that J.O.M. Mamogale had developed an altogether different interpretation of 'customary law' to that presented in his evidence to the Supreme Court. Indeed, disputed customary legal norms had become so malleable in the Kwena ba Mogopa chiefdom as to be entirely adjustable to meet the circumstances. In his complete reversal, Mamogale revealed the political expediency which served his own localised material aspirations.

This was further exposed when Mamogale insisted that the replacement for Abraham be Daniel More, who had been instrumental in the purchase of the farm Nooitgedacht (for the Bethanie section).(246) When the Additional Native Commissioner suggested alternatives and pointed out to Mamogale that Daniel More would be even more controversial than Abraham, the chief simply refused to co-operate and the Additional Native Commissioner concluded that "he wishes to see his own brothers in exalted positions."(247)

After nearly six months of wrangling the chief eventually accepted the N.A.D.'s recommendations and 'pushed through' the proposals despite 'the tribe's disapproval'.(248) The continuation of resistance at both Hebron and Jericho resulted in the further replacement of these new headmen within just four months. In April 1933 Charles More was appointed to Jericho and Aaron Mamogale at Hebron. Both headmen were to serve a probationary period of one year.(249)

By this time it was dawning on the N.A.D. officials that the exchange of headmen was not having the effect of 'appeasing' the

opposition factions at Jericho or Hebron. The department, displaying a degree of schizophrenia, reverted to the more conventional practise of bolstering the authority of the chief. The central factor limiting Mamogale's power was the limitation of his criminal jurisdiction to the Bethanie section of the chiefdom under the Native Administration Act of 1927. It was immediately suggested by the Additional Native Commissioner that Mamogale's criminal jurisdiction be extended to include the outlying sections at Hebron and Jericho.(250)

> "I am very anxious that Mamogale should have this jurisdiction in as far as the Hebron and Jericho locations are concerned, particularly the former where the 'rebel' element ... constantly causes trouble and with which up to the present the chief has had inadequate power to deal."(251)

This request was duly granted.(252) It was further recommended that similar criminal jurisdiction be granted to the headmen Charles More and Aaron Mamogale, on the basis that:

> "It is essential that the man on the spot should have jurisdiction to settle disputes arising out of distribution of lands, grazing, water etc."(253)

These recommendations were also approved.(254) However, by 1935 there appears to have been little improvement in relations within the Kwena ba Mogopa chiefdom. There were further attempts to switch Charles More and Aaron Mamogale, but the former refused to swop his position at Jericho for one at Hebron.(255) Opposition to Aaron at Hebron merely intensified and the tribal levy boycott lost none

of its momentum. Threats to prosecute defaulters simply evoked an agressive response from the 'Morula section'. Aaron Mamogale was involved in a fight with the messenger of the 'rival' legotla, and wrote to the Additional Native Commissioner claiming that the 'Morula Section' were 'on the warpath'.(256) The Morula legotla continued to hold meetings and continued to boycott the meetings of both J.O.M. Mamogale and Aaron Mamogale. By the end of February 1935, the police at De Wildt had been warned of the 'danger of bloodshed' at Hebron.(257) The N.A.D. oscillated between blaming Aaron Mamogale for being "weak, indifferent, inefficient and unreliable",(258) and blaming J.O.M. Mamogale.

> "The Chief of Bethanie Location, although an educated native has lost all control over his tribe. He is a proper weakling - has no backbone or power of control over his tribe, hence the reason for his Headmen and tribe being slack and in such poor circumstances with heavy financial liabilities. I have done everything possible to shake up this Chief during the past 5 years but without avail, and I have come to the one and only conclusion, and that is that Mamogale should be replaced by a suitable person as Chief of the Bakwena. This is the only way in which this tribe can be saved."(259)

The often-threatened prosecutions of the Morula leadership for failure to contribute to the levies never materialised, at least in part due to the strategies adopted by the boycotters.

> "Mamogale's followers, as soon as they heard of the proposed tax collection tour, all left the location in search for work, except the old men and those suffering from 'flu'."(260)

Despite all attempts, (Aaron Mamogale even offered the Marula section seats on his legotla,)[261] by the end of 1935 the political and financial crisis within the Kwena ba Mogopa chiefdom had still not been resolved.

It appears that in the following five years little was achieved by either the N.A.D. or the members of the Kwena ba Mogopa chiefdom to resolve the conflict which had punctuated at least the past fifteen years.[262] In 1939 there was a further spate of applications by individuals wishing to secede from J.O.M. Mamogale's rule.[263] These attempts to secede were identified by N.A.D. officials as being a direct response to continued attempts to enforce the implementation of tribal levies[264] and were regarded as being indicative of the impending danger of the 'disintegration of the tribe'.[265]

In 1940 it was noted by the Acting Secretary of Native Affairs that the bonds on the farms Elandsfontein and Nooitgedacht had not been reduced since 1924, and that in the preceding nine years only £1 625.14.7 had been collected through tribal levies.[266] The continued drain on the Chiefdom's finances and the consequent 'impoverishment', was seen to have left members of the chiefdom 'disheartened and dissatisfied'.

> "These liabilities have been the cause of much dissension in the tribe as many members resent the idea of having to contribute towards the liquidation of debts incurred in repsect of land in which they have no personal interest and the knowledge that the burden will continue indefinitely is a festering sore which is inevitably undermining the confidence of the tribe."[267]

Furthermore, the Secretary of Native Affairs noted that:

> "It is abundantly evident that under the existing conditions the tribe can never hope to free itself from the heavy burden of debt."(268)

He concluded that it had definitely become necessary for the chiefdom to dispense with some of its land in order to eliminate the debt.(269)

Under these circumstances it is not surprising that as late as 1940 "disharmony and recriminations, involving the chief" were 'rife'.(270) At this stage it was reported that the "weak and sick old chief was virtually destitute due to the complete refusal by members of the chiefdom to contribute to his upkeep.(270) In November 1939 J.O.M. Mamogale was 'retired' as chief. He was replaced by Daniel More who took over as 'acting chief'.(272)

In the course of Daniel More's regency, the dissension within the chiefdom appears to have intensified. The resignation of J.O.M. Mamogale immediately posed the question of who would succeed him and the period 1939 to 1941 witnessed intense and often violent conflict most notably at Bethanie where the chief had his headquarters. Breutz noted that the disruptive effect of J.O.M. Mamogale's 'weakness' and his subsequent resignation ... "was all the more serious as his people were much influenced by life in European towns."(273) Even prior to J.O.M. Mamogale's resignation, a group of young people led by two teachers formed a "Vigilance Committee" and offered to assist the chief in maintaining order in the

chiefdom. Mamogale had agreed to the establishement of such a group, but even prior to his resignation, it became apparent that this group was "stirring up the people against the chief".(274) This 'rebel' section called themselves the "Voortrekkers" or "Ma-Voor" and labelled those loyal to Mamogale "the Agtertrekkers" or "Ma-Agter".(275)

After Mamogale's death in 1940 the cleavage within the Bethanie section spread to the Lutheran church. This is not surprising as many of the 'rebel' section had joined the Bakwena Lutheran Church, a separatists sect,(276) whilst the Hermannsberg Lutheran mission had for almost seventy years played the classical role of 'state church' within the chiefdom.(277) The conflict at Bethanie proved to be of the most violent witnessed in the district throughout the period under review. In 1941 the 'Ma-Voor' went on the rampage and burnt down the Hermannsburg Church building. This was followed by a number of assaults on the missionary who for years had been the closest advisor to Chief Mamogale, and attacks on police and government officials who were sent to Bethanie in an attempt to bring the conflict under control.(278)

It is significant that the first time the question of succession came to the fore as a source of conflict, it was at the tribal headquarters, Bethanie. Apart from the fact that there was a large Christianized and educated grouping in opposition to the chief, there seems to be little evidence to suggest that the Bethanie disturbances were in any way an extension of the specific grievances experienced at Hebron and Jericho between 1921 and 1939. Whilst the

Bethanie conflict appeared to be a struggle over control of the chieftaincy initiated by a group of 'progressive natives' who were frustrated with the archaic rule of the chief and his supporters (the Agtertrekkers), the resistance at Hebron and Jericho had not displayed any pretensions to the chieftaincy itself.

However, the questions of chiefly authority and control remained central to all the disputes within the chiefdom. Opposition to the chief came from very different quarters. It reflected the interests of both migrants as well as established and successful peasant producers. It reflected the attempts of both individuals and collectives to claim exclusive control over both their earnings and their lands.

The involvement of urban based migrants within the rural struggles of the Kwena ba Mogopa chiefdom stands out in comparason to many of the other disputes discussed thus far. The refusal of migrant workers in the urban areas to contribute to tribal levies, displays the existence of urban/rural networks which are not as easily discernable in any of the other disputes in the district, with the possible exception of that in the Bakwena ba Modimosana ba Matlhaku chiefdom, where, at the climax of the struggle, urban workers from Johannesburg were bussed out to the rural area to bolster the forces opposed to Chief Moshume.(279) However, the involvement of migrant workers in the Kwena ba Mogopa struggles did not simply imply the transportation of urban-based ideologies or any 'bolshevist spirit' into the rural disputes, as was suggested by some of the local N.A.D. officials. On the contrary, the alliance

in opposition to chief Mamogale was welded together through in ideological assertion of alternative 'customary' political and legal procedures.

The Kwena ba Mogopa Supreme Court case provided a forum for the explicit competition of the various ideological formulations. Within the chiefdom itself, this took the form of a fundamental challenge to the assertion of the Chief's absolute powers over 'tribal' land and law. Out of a material need to broaden the base of political control within the chiefdom, the malcontents shaped an ideological framework of democratic procedure in tribal government, which was rooted as much in their consciousness of the past as it was in the present. As in the case of the Fokeng dispute, this internally focussed challenge to chiefly autocracy spilled over into a challenge to the N.A.D.'s methods of administrative and political control.

Within the N.A.D. itself, a degree of open conflict over the most appropriate methods of local administration and control became apparent. To some extent this reflected the conflict between the N.A.D.'s rhetoric of acting as a 'civilizing' influence and its practical concerns with 'retribalisation' via 'customary native communalism and tribal law'. This tension within the N.A.D. is to some extent explained in the national context by the competing interests of liberal versus more reactionary administrators.(280) However, at the local level in the Rustenburg district, this conflict seems to be the product of a difficult balancing act between the co-optive and coercive functions which local officials

were compelled to fulfil. This tension within the N.A.D. was exacerbated by the existence of a large, educated Christian community whose 'civilized' aspirations and demands have still to be analysed in their influence on the political struggles of rural Tswana chiefdoms in the Rustenburg district.

CHAPTER 5 FOOTNOTES

1. N.T.S., 325, 37/55, SNC to NC, (4/4/1927). Also, Breutz, P.L., The Tribes of the Rustenburg and Pilansberg Districts, Ethnological Publications No. 28, Pretoria : Department of Native Affairs (1953), pp. 78 - 9.

2. N.T.S., 325, 37/55, N.A.D. Map.

3. N.T.S., 325, 37/55, S.N.A. Minute (29/2/1924), p.1.

4. ibid.

5. ibid.

6. N.T.S., 325, 37/55 Minutes of Evidence in Jesaiah Ratibe and Others versus John Ormiston Reid and J.O.M. Mamogale. (February 1926); Evidence of Clifford Louis Reeves Harries, p.90.

7. N.T.S., 325, 37/55, Schedule attached to S.N.A. minute (29/2/24). See also, Table III on page 101 chapter II above.

8. ibid. The figure provided for Jericho excludes the farm Elandsfontein 204 which will be discussed in the following pages.

9. Breutz, P.L., The Tribes, p.92; N.T.S., 325, 37/55, S.N.A. minute. (29/2/1924), p.1.

10. N.T.S., 325, 37/55, S.N.A. minute (29/2/1924), p.1.

11. ibid., p.2.

12. This view was primarily based on J.O.M. Mamogale's own disreputable personal record. In 1911 he was convicted of being in possession of alcohol and was sentenced to two months imprisonment with hard labour; N.T.S., 323, 26/55, Acting Under Secretary for Native Affairs to SNA (17/2/1911). In 1919, his wife divorced him on the grounds of his continual adultery; N.T.S., 329, 40/55, SNC to SNA (4/9/1919). In 1923 he was found to have ordered a gang of youths to kill all the pigs in Bethanie, an act which resulted in the the killing of 123 pigs and the assault of numerous residents of the 'location'; N.T.S., 329, 49/55, District Commandant, S.A.P., Rustenburg to NC (10/7/1923). (It has proved impossible to trace any further references to this event and is therefore not possible to offer any analysis linking the pig killing to similar occurances in other parts of the country during this period.) Mamogale also alienated officials of the N.A.D. and the S.A.P. when he was charged and convicted for 'obstructing native constables in the execution of their duty', in connection with the pig-killing incidents; N.T.S., 329, 49/55, SNC to SNA (25/10/1923).

13. N.T.S., 323, 26/55, Bethanie Legotla to Minister of Native Affairs (4/3/1911).

14. ibid.

15. N.T.S., 323, 26/55, Behrens to Minister of Native Affairs (1/6/1911).

16. N.T.S., 329, 49/55, SNC Hammanskraal to SNA (8/10/1913) and (15/5/1913). See pp. 164 - 5 above.

17. N.T.S., 325, 37/55, Petition of Jericho Headmen to Prime Minister, 18/5/1927.

18. ibid., p.1.

19. ibid., pp. 2-3.

20. ibid., p.2.

21. ibid.

22. ibid., pp. 1-2.

23. ibid., p.3.

24. ibid., p.4.

25. N.T.S., 325, 37/55, S.N.A. minute, p.1.

26. N.T.S., 325, 37/55, Minutes of Evidence in Jesaiah Rathibe and Others versus John Ormiston Reid and J.O.M. Mamogale (February 1926); Evidence of Clifford Louis Reeves Harries (SNC Hammanskraal), p.125. [This case is referred to below as Rathibe and Others versus Mamogale.]

27. ibid.

28. N.T.S., 325, 37/55, Petition of Jericho Headmen to Prime Minister (18/5/1927), pp. 4-5.

29. N.T.S., 323, 26/55, NC to SNA, (25/2/1935).

30. N.T.S., 325, 37/55, Rathibe and Others versus Mamogale (February 1926); Evidence of Daniel More, p.173.

31. ibid., Evidence of Donald Rolfd Hunt, p.143.

32. ibid., Evidence of Clifford Louis Reeves Harries, pp. 125-6.

33. N.T.S., 325, 37/55, S.N.A. minute (29/2/1924), p.2.

34. ibid. Some controversy was later to manifest itself over the representative capacity of these meetings. This will be dealt with below.

35. ibid.

36. ibid., p.3.

37. ibid.

38. ibid.

39. ibid.

40. ibid., pp. 3-4.

41. All the farms allocated to the Kwena ba Mogopa chiefdom were in the Rustenburg district. The farms in question were: Beestekraal 503, Boschpoort 841 and portions of Waaikraal 206, Losperfontein 119, Pearl 395 and Wonderkop 835. The chiefdom was to give up the farm Geluk 365, portions of Losperfontein 199 and Karreepoort 623 as well as two portions of Wolvekraal 512. ibid., p.4.

42. Behrens to SNA, quoted in ibid., p.4.

43. ibid.

44. ibid., p.5.

45. ibid. Of the five farms to be transferred to the government, two were registered in favour of the chief without any mention of the tribal interest - a fact described by the NC as 'rather disturbing'. Of the remaining three farms, one was registered in favour of the Bethanie section specifically and the other two in favour of the chiefdom as a whole. ibid.

46. ibid., p.6.

47. Khunou and Petlele versus the Minister of Native Affairs, TSC, (1908), p.267.

48. Matope Matope Versus Day, T.S.C. (Appellate Division (1923).

49. N.T.S., 325, 37/55, S.N.A. minute, (29/2/1924), p.7.

50. Mathibe versus the Lieutenant-Governor, T.S.C. (1907), p.577.

51. Matope Matope versus Day, T.S.C. (Appellate Division) (1923).

52. ibid., pp. 160. For a more detailed discussion of these developments amongst the Bakubung, see Dugmore, H., 'Land and the Struggle for Sekama : The Transportation of a Rural Community - The Bakubung, 1884 - 1937', B.A. (Hons.) Dissertation, University of the Witwatersrand (1985).

53. N.T.S., 325, 37/55, S.N.A. minute, 29/2/1924, p.7.

54. ibid., p.8.

55. ibid.

56. N.T.S., 325, 37/55, Rathibe and Others versus Mamogale (February 1926); Evidence of Harry Denton Hemsworth, pp. 154-5.

57. ibid., Exhibit 1, Minutes of Meeting at Hebron, 27/3/24, pp. 233-4.

58. ibid., Statement by Levi Ntoane, p.235.

59. ibid.

60. ibid. Statement by Johannes More.

61. ibid. Statement by Nicodemus Masilo.

62. ibid., Statement by Ephriam Mogopi, p.236.

63. N.T.S., 325, 37/55, Minutes of Meeting at Bethanie, 11/4/1924.

64. ibid., Statement by Chief Mamogale, p.1.

65. ibid., Statement by David More, p.2.

66. ibid.

67. N.T.S., 325, 37/55, NC to Under-SNA (24/3/1925), p.1.

68. ibid., p.2.

69. ibid.

70. ibid.

71. ibid., pp. 2-3. Apart from the money owed on Elandsfontein a further £2 500 was still owed at this stage on the farm Nooitgedacht, ibid.

72. ibid.

73. ibid., p.4.

74. ibid.

75. N.T.S., 325, 37/55, Rathibe and Others versus J.O.M. Mamogale (February 1926); Plaintiffs Declaration, pp. 1-11.

76. ibid. Reid's application to attach the immovable property of the Kwena ba Mogopa, made in February 1925, had been postponed pending the outcome of this case. ibid. p.106. Also, N.T.S., 325, 37/55, SNC to SNA (24/3/1925).

In the course of the court proceedings certain of these charges were amended or ruled to be irrelevant by the court. The claim that Mamogale represented only the Jericho section in contracting to purchase the farm, and the contention that only the Jericho section was therefore liable, was ruled out on the basis that the Jericho section was not formally involved in the litigation. This was of considerable importance to the eventual findings of the court as it was on the basis of this ruling that the declaration of the plaintiffs was amended to exclude any references to distinctions between the different sections of the chiefdom. In the formal declaration the specific concerns of the Hebron section were therefore diluted, resulting in a judgement which dealt only with whether or not the transaction was binding on the chiefdom as a whole. N.T.S., 325, 15/55, Rathibe and Others versus J.O.M. Mamogale (February 1926), pp. 105-7. Despite this ruling, extensive evidence was led relating to these issues and this will be discussed in the pages which follow.

77. N.T.S., 325, 37/55, Rathibe and others versus J.O.M. Mamogale (February 1926); Evidence of J.O.M. Mamogale, pp. 181-191. Further evidence was led by other witnesses to this effect and will be discussed below.

78. It is interesting to note that four of the witnesses for the defence, including three members of the N.A.D., had also given evidence against the Fokeng 'rebels'. The N.A.D. officials involved were Hunt Hemsworth and Leary. None of the N.A.D. officials leading evidence for the plaintiffs had been involved in the Fokeng trial.

79. Stubbs had been in the N.A.D. for twenty three years at the time. He had served four and a half years as SNC for the Marico district, seventeen years in the Zoutpansberg district and was finally transferred to Rustenburg as NC in August of 1925. N.T.S., 325, 37/55, Rathibe and others versus J.O.M. Mamogale (February 1926); Evidence of Ernest Stubbs, p.28.

80. ibid., p.29.

81. ibid., p.33.

82. ibid., p.34.

83. ibid., p.36.

84. ibid., p.38.

85. ibid., p.30; 32. Stubbs quoted examples of a legotla deposing a chief, (with the approval of the N.A.D.) and of a pitso overturning the decision of a legotla. In this way he implied that the pitso was the most effective body in determining the policy of any chiefdom. ibid., pp. 32; 39.

86. ibid., p.38.

87. ibid., p.30.

88. ibid., p.31.

89. ibid., p.35.

90. ibid.

91. ibid., p.40.

92. ibid., p.41.

93. ibid., Evidence of Clifford Harries, p.91.
Evidence of Henry Aston Key, p.96.

94. ibid.

95. ibid., p.100.

96. ibid., p.99. The context of this evidence by Key was one in which advocate Malan, acting for the plaintiffs, was attempting to prove the existence of precedents of consultation within the Kwena ba Mogopa chiefdom. The views expressed here by both Harries and Key were also supported in the evidence of the missionary Behrens. ibid., Evidence of Rev. Behrens, p.66.

97. ibid., Evidence of Clifford Harries, p.92.

98. ibid., p.91.

99. ibid., p.92.

100. ibid., Evidence of Henry Aston Key, p.101.

101. ibid., p.97.

102. ibid., Evidence of Clifford Harries, p.92.

103. ibid., p.94.

104. ibid., p.125. Harries claimed that "voting amongst natives at the present day is usual - amongst enlightened tribes ... they have acquired the name 'vote.'" ibid.

105. ibid., pp. 125-6.

106. ibid., pp. 96; 126.

107. ibid., p.96.

108. ibid., Evidence of Willem Monaisi, pp. 52-4. Monaisi described himself as "an ordinary member of the tribe." ibid., p.53.

109. ibid., p.52. The farm involved was Kleinfontein East. It was not purchased as a result of the objections of the pitso.

110. ibid., p.54.

111. ibid. Monaisi also claimed that private purchases by members of the chiefdom did not require the consent of either the chief or the pitso.

112. ibid. "I know in the past farms were bought on the Bethanie side; on the suggestion of the late chief, the Bakwenas on the Pretoria side also joined in the purchase there, although only the Bethanie people were to occupy it and do so even now. So the Hebron people paid although they did not benefit. They did so because the late chief asked them to help in the purchase ... They could have refused to pay if they did not like."

113. ibid. "If the chief wants to buy land he calls the headmen together and the bana ba legotla. If the bana ba legotla and the Kgosana decide to buy, these headmen go and tell their sub-chiefs at their kraals, and a pitso of the tribe is then called. If the pitso decides not to buy, the matter drops." ibid., Evidence of Gideon Thipe, p.63.

"The chief, headmen and sub-chiefs and bana ba legotla have a meeting when land is to be bought. After holding their meeting these different sub-chiefs and headmen go back to their respective kraals and call their different meetings. After that a pitso is called ... If the tribe refuses to agree to the purchase, the sale does not get through." ibid., Evidence of Esron Pege, p.65.

"Before buying immovable property on behalf of the tribe, the chief calls together the headmen and the councillors - the bana ba legotla. After they have agreed on the purchase of the farm, a pitso is called. If the pitso decides not to buy, there is no purchase ..." ibid., Evidence of Simon Maquena (sic) p.67.

Apart from Gideon Thipe, Pege and Makoena, other witnesses from Hebron which led similar evidence were: Joseph Motsepe, ibid., pp. 50-2; Abraham Kekane, ibid., pp. 55-8; Fanuel Maseke, ibid., pp. 70-1; N'Twane (sic), ibid., pp. 71-2; Samga Rabomani, ibid., p.72; Petrus Mosane, ibid., pp. 72-3; and Solomon Thipe, ibid., pp. 73-6.

114. ibid., Evidence of Simon Makoena, p.67.

115. ibid., Evidence of Joseph Motsepe, pp. 50-1.

116. ibid.

117. After twelve witnesses from Hebron had led evidence for the plaintiffs, advocate Pirow for the defendant complained at the lengthy evidence being given by witnesses none of whome were 'a recognised authority on native custom'; ibid., Pirow, p.66.

118. ibid., Evidence of Gideon Thipe; pp. 63-4.

119. ibid., Evidence of Fanuel Maseke, p.71.

120. The land purchase most frequently referred in this respect was that of the farm Olievenpoort. This farm was one of two farms described by Reverend Behrens as truly being 'tribal farms'. See footnote (45) above. For discussion of the purchase of Olievenpoort see: Evidence of Micha Seleitse, ibid., pp. 47 - 8; Evidence of Willem Monaisi, ibid., p.54; Evidence of Gideon Thipe, ibid., p.63 and Evidence of Esron Pege, ibid., p. 65. Witnesses other than those from Hebron also referred to the purchase of Olievenpoort in this context, see: Evidence of August Frederich Kaiser (a white farmer), ibid., pp. 42 - 3; and Evidence of Rev. Behrens, ibid., p.66.

121. ibid., p.66.

122. ibid., pp. 44; 46.

123. ibid., p.48.

124. ibid.

125. ibid., p.45.

126. ibid., p.46.

127. ibid., pp. 49-50.

128. ibid., p.47.

129. ibid., Evidence of Dr. Modini Molema, pp. 58-61.

130. ibid., Evidence of Sol Plaatje, p.79.

131. ibid., pp. 80; 82-3; 88.

132. ibid., p.81.

133. ibid., p.83.

134. ibid., p.78.

135. ibid., p.84.

136. ibid., p.88.

137. ibid., p.83. Plaatje also insisted that the chief could not spend accumulated tribal funds without first consulting the pitso. ibid.

138. ibid., p.79.

139. ibid., p.84. Plaatje extended this point to include all forms of fixed property and asserted that private or exclusive control over many of these resources was an established precedent within customary tribal law. "In the olden days, when dams or wells were required, people made them on their own property and the wells and dams became their own property. I do not remember an instance when they co-operated to build a dam." ibid., p.79.

140. ibid., p.89. Plaatje was particularly concerned with the question of 'land allocation without consultation' in the context of the severe land shortage being experienced by African chiefdoms in the area. ibid., p.80.

141. ibid., p.84. See N.T.S., 316, 15/55 Daniel Mokgatle and others versus J.B.M. Hertzog (April 1925); Evidence of Solomon Plaatje, pp. 149 - 72.

142. N.T.S., 325, 37/55, Rathibe and Others versus J.O.M. Mamogale (February 1926), Evidence of Sol Plaatje, pp. 84 - 9.

143. Whether the 'rules of consultation' were enshrined in customary legal practice or not, Plaatje's suggestion that these practices would obviate any dispute or conlfict over material resources seems on the basis of this work, to be somewhat wishful.

144. ibid., Evidence of John Glen Leary, p.102.

145. ibid., p.103.

146. ibid., p.109 - 10.

147. ibid., pp. 109 - 11.

148. ibid., p.109.

149. ibid., pp. 163 - 5.

150. ibid., p.167.

151. ibid., p.164.

152. ibid., pp. 166 - 7.

153. ibid., Evidence of Donald Rolfd Hunt, p.43; and Evidence of Harry Denton Hemsworth, pp. 151; 159.

154. ibid., Evidence of Harry Denton Hemsworth, p.151.

155. ibid., p.152.

156. ibid., Evidence of Donald Hunt, pp. 144; 149.

157. ibid., Evidence of Harry Denton Hemsworth, pp. 160 - 1.

158. ibid., p.160.

159. ibid., Evidence of Donald Hunt, p.144.

160. ibid.

161. ibid., pp. 146-7.

162. ibid., p.150.

163. ibid., Evidence of Donald Hunt, pp. 142-5; Evidence of Harry Denton Hemsworth, pp. 152 - 7.

164. ibid., Evidence of Donald Hunt p.149; Evidence of Harry Denton Hemsworth pp. 153; 156; 158.

165. ibid., pp. 152; 156.

166. ibid., p.158.

167. ibid., p.159.

It is not possible to document or even summarize all the voluminous evidence led for the defense. Nonetheless, several witnesses, apart from members of the chiefdom who were loyal to J.O.M. Mamogale, corroborated the evidence and interpretations of Leary, Hemsworth and Hunt. The tone which these three witnesses set, reflects adequately the basis on which the case of the plaintiffs was challenged. Extensive evidence was led by Isang Pilane who, as in his evidence in the Fokeng trial, focussed primarily on the absolute powers of the chief under customary law. ibid., Evidence of Isang Pilane, pp. 128 - 36. Evidence was also led by brothers Georg and Paul Schwellnus, both members of the Belin Mission Society. Neither of these two witnesses had any direct experience of the Kwena ba Mogopa chiefdom, but both corroborated in theory the interpretations of customary procedures espoused by previous witnesses for the defense.

ibid., Evidence of George Schwellnus, pp. 136 - 43; and ibid., Evidence of Paul Schwellnus, pp. 111 - 124.

168. ibid., Evidence of J.O.M. Mamogale, p.181.

169. ibid., p.182.

170. ibid., p.182 - 3.

171. ibid., pp. 182 - 91.

172. ibid., Evidence of Daniel More, p.173.

173. ibid., pp. 169-71.

174. ibid., pp. 171-2.

175. ibid., pp. 174-5.

176. ibid., pp. 174.

177. ibid., p.178. Daniel More's evidence was virtually repeated by David More, another Bethanie resident. ibid., Evidence of David More, pp. 193-8.

> "When farms are bought like that, according to native custom - according to the custom of my tribe - the property is regarded as belonging to the chief and his people - all of his people. If land was purchased with the intention of being used by one section, if it is necessary members of another section can go and live there and graze their cattle." ibid., p.194.

178. See pp. 229; 248 above.

179. N.T.S., 325, 37/55, Rathibe and Others versus Mamogale (February 1926), Judgement of J. De Waal, pp. 201 - 3.

180. ibid., pp. 202-3.

181. ibid., p.205.

182. ibid., p.206.

183. ibid.

184. ibid.

185. N.T.S., 325, 37/55, Petition of Sub-chiefs and Legotla members at Hebron to the Prime Minister, ?/2/1927, (exact date not given) p.6.

186. ibid., pp. 2-3.

187. ibid., pp. 5-8.

188. N.T.S., 325, 37/55. Chief Mamogale quoted in SNC to NC (4/4/1927), pp. 3-5.

189. ibid., p.5. This view was also held by the SNA who stated that "... it was the legal tinkerings of the dissidents from Hebron and Jericho that had resulted in this state of affairs (the tribal financial debt - G.S.)"; N.T.S., 325, 37/55, SNA to Jericho Petitioners (16/5/1927).

190. N.T.S., 325, 37/55, SNC to NC (4/4/1927), p.1. Abraham Mamogale, the chief's twin brother and officially J.O.M. Mamogale's sub-chief at Hebron, was not amongst those who had endorsed the petition.

191. ibid., p.6. Previous to this correspondence, the evidence suggests that the Hebron malcontents had made a point of participating in the 'customary' discussion forums made available to them. Although it was not explicitly stated, it is possible to speculate that the Hebronites had lost faith in the potential of the pitso as a bargaining forum subsequent to the findings of the Supreme Court.

192. N.T.S., 325, 37/55, SNA to SNC (10/3/1927).

193. N.T.S., 325, 37/55, SNC to SNA (6/5/1927).

194. N.T.S., 325, 37/55, Petition of Jericho Headmen to Prime Minister (18/5/1927). Most of the complaints raised in the Jericho petition have been dealt with above.

195. ibid.

196. ibid.

197. N.T.S., 325, 37/55, Attorney Kleyn to SNA (28/7/1927), p.2.

198. ibid., p.6.

199. ibid., p.7.

200. N.T.S., 325, 37/55. Petition of Sub-chiefs and Legotla members at Hebron to the Prime Minister (?/2/1927), (Exact date not given) p.6.

201. N.T.S., 325, 37/55, NC Northern Areas to SNA (undated).

202. ibid.

203. N.T.S., 331, 56/55. Bakwena Tribe Seccession of Certain Natives; SNC to SNA (4/4/1927); Attorney Kleyn to SNA (20/4/1927); Detached clerk Hamanskraal to SNC (16/5/1927); and Attorney Kleyn to SNA (25/5/1927).

204. It should be remembered that Abraham was seen by N.A.D. officials Hunt and Hemsworth to be the central representative of the Hebron section at the various meetings dealing with the Elandsfontein transaction.

205. N.T.S., 331, 56/55, S.M. Molefe to J.O.M. Mamogale (25/10/1928).

206. N.T.S., 331, 56/55, Add. NC to SNA (29/10/1928).

207. ibid.

208. N.T.S., 331, 56/55, J.O.M. Mamogale to Add. NC (15/11/1928).

209. N.T.S., 331, 56/55, Seth Molefe to J.O.M. Mamogale, 20/11/1928; and Add. NC to SNA (7/12/1928).

210. N.T.S., 331, 56/55, Add. NC to SNA (20/12/1928).

211. These meetings were held under a large Morula tree outside the village at Hebron. As a result, members of the Hebron opposition referred to themselves as the "Morula Section" and the rival legotla called itself the "Morula Legotla." Breutz, P.L. Tribes, pp. 93-4.

212. N.T.S., 331, 56-55, Morula Legotla to J.O.M. Mamogale (15/1/1929).

213. N.T.S., 331, 56/55, Add. NC to SNA (27/2/1929).

214. ibid.

215. There was at this stage no clause in the Native Development and Taxation Act of 1925, which provided for punitive measures to be adopted against those who refused to pay tribal dues, although such a measure was anticipated by N.A.D. officials in the upcoming parliamentary session. N.T.S., 331, 56/55, Add. NC to SNA (15/2/1929); and SNA to Add. NC (20/2/1929).

216. N.T.S., 331, 56/55, SNA to Add. NC (9/3/1929).

217. ibid.

218. ibid.

219. N.T.S., 331, 56/55, Petition of Hebron Natives (12/11/1929).

220. N.T.S., 331, 56/55, SNA to Add. NC (13/3/1929).

221. More than half of the signatures attached to the petition to the SNA (12/11/1929) were identified by the Add. NC (with the help of Abraham Mamogale) as belonging to migrant workers. N.T.S., 331, 56/55, Add. NC to SNA (18/3/1930).

222. N.T.S., 331, 56/55, Add. NC to SNA (17/2/1930).

223. ibid. Mamogale implied that he intended to remove the Morula leaders from all tribal properties. It was, however, pointed out by the Additional NC, that Mamogale was granted criminal jurisdiction under Government Notice 149/1929 for the Rustenburg district only. This meant that it was legally impossible for him to remove members of the chiefdom from tribal land which lay outside of this district. The Additional NC bemoaned the fact that this severely limited Mamogale's ability to control and regulate the factional politics of the chiefdom. ibid.

224. N.T.S., 331, 56/55, J.O.M. Mamogale to Add. NC (7/6/1930).

225. N.T.S., 331, 56/55, Add. NC to SNA (13/6/1930); and Add. NC to SNA (22/7/1930).

226. N.T.S., 331, 56/55, J.O.M. Mamogale to Add. NC (14/1/1931).

227. N.T.S., 331, 56/55, SNA to Add. NC (17/2/1931).

228. ibid.

229. N.T.S., 331, 56/55(1), Add. NC to SNA (28/11/1931).

230. ibid.

231. ibid.

232. ibid.

233. ibid.

234. ibid.

235. N.T.S., 331, 56/55, Attorney Rose Innes to Add. NC (1/2/1932).

236. ibid.

237. N.T.S., 331, 56/55(1), Add. NC to SNA (24/2/1932). The central complaints against Obed had concerned his control over the issuing of passes and, in particular, allegations that he had been charging 6d. for a pass to leave the 'location'. Members of the Jericho community claimed that this was being done under the instructions of J.O.M. Mamogale. N.T.S., 325, 37/55, Petition of Jericho headmen to the Prime Minister (18/5/1927) p.3.

238. N.T.S., 331, 56/55(1), Add. NC to SNA (24/2/1932).

239. ibid.

240. ibid.

241. N.T.S., 331, 56/55, SNA to J.O.M. Mamogale (21/2/1932).

242. N.T.S., 331, 56/55, SNA to J.O.M. Mamogale (7/3/1932).

243. N.T.S., 331, 56/55(1), Behrens to Add. NC (17/5/1932).

244. N.T.S., 331, 56/55, Obed More to J.O.M. Mamogale (23/5/1932); and Abraham Mamogale to J.O.M. Mamogale (23/5/1932).

245. N.T.S., 331, 56/55, J.O.M. Mamogale to Add. NC (5/7/1932).

246. N.T.S., 331, 56/55(1), Behrens to Add. NC (17/5/1932).

247. N.T.S., 331, 56/55, Add. NC to SNA (19/12/1932).

248. N.T.S., 331, 56/55, Mamogale to SNA (24/12/1932). Filimon More was nominated as Obed's successor at Jericho and David More was nominated for Hebron. Abraham Mamogale was transferred as headman to the Ventersdorp section of the Chiefdom. N.T.S., 331, 56/55, Add. NC to SNA (19/12/1932).

249. N.T.S., 331, 56/55, Add. NC to J.O.M. Mamogale (22/4/1933).

250. N.T.S., 323, 26/55, Add. NC to SNA (23/3/1934).

251. ibid.

252. N.T.S., 323, 26/55, Acting SNA to Add. NC (18/6/1934).

253. N.T.S., 331, 56/55(2), Add. NC (Hammanskraal) to Add. NC (Pretoria) (7/9/1934).

254. N.T.S., 331, 56/55(2), SNA to Charles More (5/1/1935); and SNA to Aaron Mamogale (5/1/1935).

255. N.T.S., 331, 56/55, NC to J.O.M. Mamogale (22/2/1935); and Add. NC to NC (3/5/1935).

256. N.T.S., 331, 56/55, Aaron Mamogale to Add. NC (20/2/1935).

257. N.T.S., 331, 56/55, Add. NC to Dist. Commandant, S.A.P. (27/2/1935).

258. N.T.S., 331, 56/55, NC to SNA (25/2/1935).

259. N.T.S., 323, 56/55, Add. NC to SNA (2/9/1935).

260. ibid.

261. N.T.S., 331, 56/55, NC to SNA (31/12/1935).

262. It has proved impossible to trace any N.A.D. correspondence relating to the Kwena ba Mogopa chiefdom between the years 1935 and 1939. Only a few letters in 1939 and 1940, which deal with much the same issues as earlier correspondence, suggest the continuation of the trends outlined in the pages above. This gap in the N.T.S. correspondence is inexplicable. The following paragraphs are consequently reliant on the work of Breutz, P.L. The Tribes pp. 93 - 4, and some retrospective comments made by N.A.D. officials in 1939 and 1940. As a result, some of the interpretive comments which follow are, by necessity, slightly speculative especially in relation to events at Bethanie. However, the concerns of the N.A.D. officials during the early 1940s are consistent with those of the earlier period and the issues upon which political struggles in the Kwena ba Mogopa chiefdom were focussed are easy to identify.
See: N.T.S., 331, 56/55(2), Mamogale, Succession of Certain Natives;
N.T.S., 326, 37/55, Tribal Dept. Bakwena ba Mogopa Tribe; and
N.T.S., 323, 26/55, Bakwena Tribe: Chieftainship.

There is, however, no convenient explanation of the resolution of this conflict which is readily available. What is apparent, is that no such resolution was accomplished within the time period covered by this study.

263. See for example: N.T.S., 331, 56/55(2), A.M. Thipe to Minister of Native Affairs (27/4/1939); S. Done (sic) to SNA, 25/5/1939; C.J. Mamogale to Add. NC (20/7/1939); and SNA to Chief NC (20/3/1940).

264. N.T.S., 323, 26/55, Acting SNA to Secretary for Finance (1940) (exact date not available).

265. ibid.

266. N.T.S., 326, 37/55, SNA to NC (19/9/1940).

267. ibid.

268. ibid.

269. ibid.

270. N.T.S., 323, 26/55, Acting SNA to Secretary for Finance (1940) (exact date not available).

271. ibid.

272. N.T.S., 323, 26/55, SNC to SNA (20/4/1940).

273. Breutz, P.L., The Tribes, pp. 93-4.

274. ibid., p.94.

275. ibid.

276. ibid., p.100.

277. The role of the church in the chiefdoms of the Rustenburg district is discussed in detail in the following chapter.

278. Breutz, P.L., The Tribes, p.94.

279. N.T.S., 3792, 2483/308, Bakwena ba Molimosana (Chief Moshume, Rustenburg) Secession of certain natives from (1935-1942). This dispute in Pellastad, the headquarters of Chief Moshume, was remarkably similar to that amongst the Kwena ba Mogapa, although it was much smaller in scale. The dispute originated in the exchange of some farms in the Rustenburg district for land in the Marico district where an outlying branch of the chiefdom was situated. For six years after the exchange took place (in 1935) there were discernable rumblings of dissent at Pellastad, which suddenly erupted in the early 1940s.

280. See Dubow, S., 'Holding 'a just balance between white and black': The Native Affairs Department in South Africa, 1920-33', Journal of South African Studies, Vol. 12, No. 2 (April 1986), pp. 1-23.

CHAPTER SIX CHRISTIAN PEASANTS AND POLITICS

> "Worm, how did you manage to enter the large body of an ox and cause it to rot? and the worm answered, 'Through a tiny piece of flesh'. That was how the Christian church entered my tribe not to cause it to rot, but to cause it to become Christian. That is the way the Christian teaching and following became part and parcel of life in my tribe"(1)

One of the most noteworthy features of the rural African communities of the Rustenburg district was the remarkably high proportion of Christian converts in every chiefdom in the 1920s and 1930s. This factor had a direct influence on the political struggles in the area. It was the Christian missions which in many instances provided the initial access to land and through which land was subsequently purchased. It was also the Christian missions which provided access to education within the rural reserves and the involvement of educated, 'civilized' Christians has been noted in almost all of the disputes discussed. Yet the exact nature of the Christian church's influence in the political and ideological conflicts in the district is not clear cut and it is the object of this chapter to try to interpret the roles played by the various mission groupings in the area.

In both the Fokeng and the Kwena ba Mogopa disputes, there is evidence that different mission groupings or missionaries played an active role in the political conflicts discussed.

In the Fokeng dispute the Lutheran missionary Penzhorn was seen to stand firmly behind the Chief, and indeed, it was suggested that his life was as much in danger as was that of the August Mokgatle during

the height of the unrest.(2) It is clear from the correspondence that he was also supplying the chief, the police department and the NAD with information on the machinations of the 'rebel' section. By the same token, Spooner, a black Jamaican minister of the Pentecostal Holiness Church, was continually being identified as the brains behind the dissenting section.(3) Ernest Stubbs, Native Commissioner and Magistrate of Rustenburg at the time, wrote the following somewhat conspiratorial report to the Secretary of Native Affairs:

> "It has come to my notice that there is a certain Reverend Spooner, an American Negro carrying on mission work in the Phokeng stad. There is the suspicion that he is in the employ of some revolutionary society, possibly Red or Communist and that he is at the bottom of the Phokeng dissensions.
>
> It has been suggested to me that, but for the machinations of this gentleman, the rebel faction would have negotiated peace with the Chief August Mokgatle. I am not in a position to say whether the suspicions are well founded but from the surrounding circumstances, it is just possible that there may be a great deal more in this business than meets the eye ... I think the suspicions are worth investigating ... we may quite possibly happen upon a deep laid plot, hatched and engineered by the astute, adroit Reverend gentleman in conjunction with his white brothers. One never knows!"(4)

Again, in the unrest amongst the Kwena under Mamogale it was the Lutheran church and its missionary which bore the brunt of the violent attacks by the rebellious section of the chiefdom.(5) Although the Pentecostal Holiness Church did not have a substantial following in the chiefdom, the Bakwena Lutheran Church, a separatist offshoot of the Lutheran mission, appears to have been centrally involved.(6)

Before it is possible to assess and evaluate the role of the church in tribal politics, it is necessary to examine the historical context of mission activity in the district, with particular sensitivity to the ideological contradictions engendered by the penetration of Christianity in these peasant communities.

I Missionaries from Germany - The State Church

It was noted in chapter two, that as early as 1853, the Kwena Chief Setshele asked President Pretorius to send him a missionary. In response, the government invited the Hermannsburg Lutheran Mission to establish itself in the area. Until then, the bulk of the Mission's work had been in Natal.(7) As the Kwena were still not permanently settled in the wake of the Difaqane, the missionaries were forced to trek with various groupings from farm to farm. The first permanent mission station was established 'by invitation' in 1864 at Bethanie.(8) Breutz has pointed out that in all except one of the chiefdoms of the Rustenburg district, the missionaries who first set up missions had been invited to do so by the respective chiefs of the district. In the case of the Fokeng this amounted to sending some tribesmen to Natal in order to secure a missionary to settle in the district.

> "The legend is that a group of ox wagons drawn by teams of oxen with a large group of men and women left our tribe for Durban to interview the German missionaries ... They picked one for themselves and asked him to consent to become their teacher of the Christian doctrine and priest. His name was Penzhorn. Having been chosen Mr. Penzhorn

> and his family agreed to accompany my people on the long journey back to Phokeng ... Since they were brought to the tribe, the building of a home for them became the tribe's duty"(9)

Naboth Mokgatle's description of this process is corroborated by Setswammung Mokgatle who, when interviewed, described how the chief set off on an ox-wagon to fetch the missionaries from Germany.(10) Contrary to Breutz, Mokgatle claimed that when Penzhorn settled in Phokeng he was the first Lutheran missionary to settle in the district. He went on to claim that the nearby chiefdoms looked to the Fokeng for guidance and as a result embraced the same denomination.(11) Both Breutz and Mokgatle agree, however, that Penzhorn set up mission in Phokeng in 1867.(12) By 1885 there were twelve fully-fledged Hermannsburg Lutheran mission stations established in the district.(13)

The incorporation of Christianity into the communities of the Rustenburg district in the half century following Penzhorn's arrival, appears to have undermined much of the existing ideological practice in these Tswana societies. Both polygamy and initiation ceremonies were formally declared incompatible with Christianity and were openly condemned by the missionaries.(14) However, the impact of Christianity on polygamy and circumcision ceremonies is difficult to assess. Despite formal conversions and despite Emmett's claim that by the 1920s initiation rites were all but extinguished,(15) there is evidence which demonstrates that well into the 1930s, Christian parents in the Rustenburg chiefdoms were sending their children to initiation schools outside the district.(16) Indeed, Breutz suggests that initiation ceremonies

continued to take place amongst the three chiefdoms in the north-western corner of the district until at least the late 1940s.(17)

Polygamous practices likewise tended to diminish,(18) but appear on occasion to have continued amongst some of the wealthier men who were not prepared to give up one or more of their wives.(19)

By the 1920s, however, polygamy was almost completely non-existent in the chiefdoms of the Rustenburg district. This was widely identified as being the result of a combination of the impact of Christian ideology and an increasing inability of most men to afford more than one wife.(20) The condemnation of both polygamous practices and circumcision ceremonies posed a potential challenge to established control over both land and labour, especially in the case of chiefly rights to labour services and household access to land. This is not to suggest that polygamy or circumcision ceased overnight, but as the popularity and influence of the Christian church increased, so the ideological basis of these practices was increasingly challenged. The practice of polygamy as well as initiation ceremonies, represented fundamental institutional expressions of elder, household head and chiefly ideological control, and Naboth Mokgatle described both as historically central to 'tribal cohesion'.(21)

Mokgatle suggested that men were provided with fields for agricultural and pastoral production according to the number of wives they had: each male would be granted a plot of land for each

of his wives. According to Mokgatle, polygamous practices were therefore integral to the system of land allocation.

Mokgatle also claimed that 'traditionally' the chief could call on the labour of the 'circumcision' battalions to perform a wide range of tasks, from the fighting of wars, to the cultivation of the chiefs' fields.

> "... The battalions of circumcised boys or men belong in law to the chief."(22)

Evidence that chiefs in the Rustenburg district had the power to order their subjects to go to work on the diamond mines,(23) as well as the continued claims of many chiefs' to tribute in the form of migrant wages, would appear to bear Mokgatle out. Women were also on occasion forced to allocate their labour time according to the wishes of the chief. In the Fokeng chiefdom, for example, chief Mokgatle Mokgatle ordered Fokeng women to go to work on neighbouring white farms.

> "... a certain white man who ruled over the people of Mokgatle ... called Piet Kruger, came to our village and asked chief Mokgatle to provide him with women and children who could work on his farms ... Our mothers worked in those fields ... Kruger did not pay them. The old man Mokgatle called the Bafokeng to the Kgoro and told them that the following morning they should go and weed Kruger's farms."(24)

Such occurrences continued after the establishment of mission stations in the district, indicating that any challenge to chiefly control over male or female labour was by no means the immediate or

exclusive effect of the influence of Christian ideology. However, the formal abolition of circumcision does appear to have at least potentially threatened the ideological basis of chiefly rights to these services.

The Christian churches also directly challenged the legitimacy and practices of 'diviners' or 'doctors' and in so doing, undermined another tenet of prevailing tribal ideology.(25) However, Naboth Mokgatle asserted that the 'mystical' respect for medicine-men remained deep-seated amongst mission-educated and uneducated Africans alike, well into the second half of the twentieth century.(26) In particular, the curbing or outlawing of rainmaking procedures, in which doctors were central and at which chiefs officiated, met with widespread resentment throughout the period under review, especially during periods of drought. Thus one chief complained that due to the undermining of the ideological authority of the doctors (who then left the rural areas for the towns) ... "it only rains in the towns."(27) As late as 1949 the Fokeng chief performed a rain dance which resulted in tension between himself and the missions of the area.(28)

Similar ambiguities were evident in the church's influence on the payment of bogadi (brideprice). In the Kwena ba Mogopa chiefdom, bogadi payment was abolished 'by law', much to the approval of the local Lutheran missionary.

> "The community of Bethanie has set the law that no Christian father may take cattle for his daughter. This is an example of how the community is eradicating its heathen ways through setting up new customs and habits."(29)

However, it is clear that in many instances the system of bogadi payment was not seriously challenged. Both Revs. Penzhorn and Stegmann in evidence to the Native Economic Commision of 1930-2, acknowledged that the missions turned a blind eye to the maintenance of this practice.(30) When questioned about Christian converts paying bogadi, Penzhorn responded that:

> "The attitude is that the parent cannot ask for it, it must be a present. It must be a present by the young man or his father, which he gives to the parent of the girl. They do not ask for it ... It is the father of course who is after the cattle. It puts him in a better position and if he had a number of girls he will become a rich man ... originally it was not a matter of trade at all, it was a matter of gift - pure and simple, and that is what all the old natives say."(31)

The Pentacostal Holiness Church missionary, Rev. Kenneth Spooner, was more frank in his assessment of continued bogadi payment:

> "It is a well known fact that the father of the girl expects to receive some compensation for her when giving her in marriage."(32)

Spooner continued:

> "The dowry is something that neither Christianity nor civilization has been able to change. In fact, Christianity has only made the burden heavier to a certain extent, for besides the dowry, the young man has to bear all the expenses of the wedding."(33)

While the growing influence of Christian churches did not have the effect of immediately transforming the existing ideological

practices within the Tswana chiefdoms of the Rustenburg district, through the challenge which it posed to polygamy, circumcision ceremonies and bogadi payment, Christianity potentially unsettled the customary sources of ideological and material control within these chiefdoms. Many of the institutions created by the Christian missions also potentially provided an alternative locus of authority. Schapera shows how, in the case of the Tswana more generally, the establishment of a number of institutions, such as church councils, school committees and the magistrates' courts, often rivalled the chiefs' courts and other institutions of tribal authority.(34)

Under these circumstances - where the Christian church displayed the potential to undermine many of the existing sources of ideological control within the chiefdoms of the district - it remains to be answered why these Tswana chiefs solicited the services of the missionaries? The first answer to this question lies in the access to land which the white missionaries were able to guarantee.

As noted in chapter two, possibly the most significant aspect of the co-operative relationship between the Chiefs and the Lutheran mission during the nineteenth century, was the extent to which this facilitated the purchase of land on behalf of the various chiefdoms.(35) It was also pointed out in chapter two that most of the smaller chiefdoms in the district, such as the Kwena ba Modimosana ba Maake and the Kwena ba Modimosana ba Mmtau, were entirely reliant on mission purchased land as the only land of which they were able to secure ownership.(36) The larger chiefdoms were

also heavily dependent on mission purchased land. In the period 1868-9 the Lutheran mission bought substantial tracts of land on behalf of chief Mosome of the Kwena ba Modimosana ba Matlhaku.(37) Rev. Penzhorn described how he bargained with white landowners on behalf of Chief Mokgatle Mokgatle of the Fokeng and he eventually secured the purchase of certain farms on their behalf.(38) Similarly, the Lutheran missionary at Bethanie described how the Kwena ba Mogopa secured the purchase of several farms through the missionary's mediation.(39)

The purchase of land on behalf of these chiefdoms contributed greatly to the maintenance of chiefly authority by maintaining the material basis of the chiefs' ability to distribute land amongst members of the chiefdoms.

More generally, the 'usefulness' of the missionaries to the Tswana chiefs in the context of white colonisation, was noted by the Lutheran missionary at Bethanie. He was particularly aware of the ambiguity of the chiefs' position as 'rulers' of their people while being subject to the overiding authority of the white government, and noted the mediating role played by himself and other missionaries in this regard.

> "Now the natives had two lords and had to see how they coped with that. In this difficult situation the chiefs were glad when a missionary settled down with the tribe. This was of great significance for them as regards the government and the white population and they would listen to the missionaries' advice and words."(40)

The close association between the various chiefs and the mission appears to have operated to bolster the political standing and authority of the chiefs within their communities. This is another essential factor in explaining the origins of the missions establishment in the district on the basis of chiefly invitation.

Pauw describes how, in Taung communities, the church which had been settled in a particular chiefdom for the longest period tended to become most closely associated with the chief and tribe - that is, 'a state church'.

> "The traditional social structure of the Tswana has undoubtedly been favourable to the formation of tribal churches. The concentration of the population in large towns and their highly centralised form of government were connected with a high degree of tribal solidarity, and these factors must have caused reluctance to accept missionaries of different denominations within a single tribe, since it would weaken tribal solidarity and thus endanger the chief's influence over the tribe".(41)

Pauw goes on to suggest that later the waning influence of chiefs tended to facilitate the multiplication of denominations. Yet it is equally clear that chiefly authority had come to operate, to a certain extent, through the state church. The close association between chiefs and the church in these societies contributed to maintaining chiefly control over the Christian population. Quite obviously, developing mission influence was not simply controllable by the chiefs, but control over the establishment of the Christian church and close association with its expansion (the establishment of a 'state church' in Pauw's terms), served to enhance chiefly power in the face of colonisation.

There is considerable evidence of these processes having taken place in the communities of the Rustenburg district. Rev. Behrens pointed out that the early years of the Lutheran mission's involvement at Bethanie witnessed the development of a co-operative relationship between the missionaries and the chief.

> "Right throughout the relationship between the missionary and the chief was a good one and the consequences showed immediately."(42)

The rapid integration of the Christian church into the Tswana chiefdoms of the Rustenburg district was facilitated by the fact that many of the chiefs themselves were amongst the first converts.

> "It is probably rare in mission history that a people accepted the gospel as quickly as these Bechuana tribes - almost too quickly for a healthy and constant development. Many of the chiefs let themselves be baptised and it is thus no wonder that his subjects followed in huge masses."(43)

A similar process appears to have occurred in the Fokeng Chiefdom. Naboth Mokgatle notes the rapid conversion of many of the most influential men in Fokeng society - they were, he claims, 'all rich but simple Africans'.(44)

Amongst the Fokeng, the close association between tribal authority and the Lutheran church was often made explicit. When Rev. Penzhorn met with some opposition from members of the Fokeng chiefdom, Chief August Mokgatle was quick to step in and defend the missionary.

> "Those who don't want this Moruti anymore can go where they want to go, because I want to keep him. The church belongs to me and the community and the Moruti remains with me and the congregation in the church."(45)

Partial dependence on the chiefs was also acknowledged by some of the missionaries. The missionary at Bethanie, when reviewing the history of the Lutheran mission, stated that:

> "the missionaries relied on the help of the chiefs in the development of the missions, for example, the building of churches ... and the congregation affairs became the concern of the people."(46)

However, the mutual reliance of chiefs and missionaries upon each other, did not imply an entirely unproblematic relationship. Whilst August Mokgatle, chief of the Fokeng, had claimed that "The church belongs to me", Rev. Penzhorn had offered a slightly different interpretation. He suggested that "... in practice it is the church order which rules."(47) This tension centred on the chief's attempts to advance their control and further their authority through the church. In particular, the Lutheran missionaries complained that the second generation of chiefs after the establishment of the missions, unlike their fathers (who had a "thankful reverent relationship with the missionaries") wanted to be "the masters of the church."(48)

The missionary at Bethanie expressed his reservations about this development:

> "As long as the chief remained under the influence of the missonary everything was fine ... Yes, great things were achieved, startling things, especially in Bethanie. But the picture changed sometimes [when] ... the young chiefs took the oar ...
>
> It is sometimes forgotten that the missionaries helped the people to land ownership through great effort. Yes, they are even attempting to claim the land which is under mission ownership, as the property of the people ...
>
> Amongst other tribes, [outside the Rustenburg district] where their chief remained a heathen or belonged to another religious order, the congregation developed normally and peacefully - not so dazzling on the outside, but healthier on the inside."(49)

Ultimately, the Lutheran missionaries in the district were determined to maintain the autonomy of the church and resisted the more overt presumptions of chiefs to control the jurisdiction of the missions.(50) As reported by Behrens, there were many occasions on which the Lutheran missionaries entered into open conflict with the chiefs, usually on the basis of the latter's misconduct.(51) It has already been noted that the ideology and ritual of the Christian church often conflicted with that of dominant customary ideological practices such as initiation or rainmaking in which were vested much of the chiefs' ideological authority.

Nonetheless, the apparent development of 'state churches', (witnessed by the rapid conversion of chiefs and influential members of chiefdoms, the flood of converts which followed and the quick, if slightly ambiguous, integration of Christian norms into the practices of Tswana societies) offered chiefs of the district a political initiative which potentially enabled them to extend their

influence and authority. Thus the establishment of Christian missions by 'chiefly invitation' is partially explained as a creative response to the undermining effects of colonisation on both the ideological and material bases of chiefly authority.

One further advantage which the Christian missions offered to the Tswana chiefdoms in the Rustenburg district was access to education. It is impossible to speculate as to whether or not this advantage was consciously anticipated, inspiring the invitation extended to the Lutherans to settle in the district. What does become clear, however, is that from the late nineteenth century onwards, access to education, (especially literacy and numeracy skills) was a vital asset in the changing material circumstances which characterized the expansion of capitalist relations of production in the country. The issue of mission education, its nature and its content, was highly conflictual in these communities during the twentieth century. This is not surprising as formal education potentially offered one of the most explicit ideological challenges to 'traditionally' constituted 'tribal' authority. These conflicts in the sphere of education will be dealt with more fully in the following pages.

The penetration of Christian ideology unquestionably posed a series of indirect threats to ideological authority of chiefs and elders within the in the peasant communities of the Rustenburg district. However, the development of a close association between a 'state church' and chiefly authority, contributed substantially to the resilience of this authority under changing material conditions in

these societies. The development of an alternative source of religious identification, within more politically active separatist churches, can equally be seen to have posed a significant challenge to these transformed mechanisms of political control.

II Education and Authority - The Challenges of the New Missions

The Lutheran missions throughout the district flourished prior to the turn of the century. Mokgatle claims that once prominent members of the chiefdoms had converted, commoners felt free to do so.

> "Nearly every family before my birth (1911) found itself divided in the middle, into Christians and non-Christians."(52)

By 1930 Penzhorn could claim five thousand Lutheran church members in Phokeng alone.(53) In 1940, Penzhorn's successor boasted that "Saron is the largest mission station of our mission in Africa ..." He claimed just under six thousand members at Phokeng alone.(54) Breutz claims that by 1947 in the two missions amongst the Fokeng there were over ten thousand Lutheran converts. Of the thirteen mission stations established in the district, only one had less than 1500 members by this time and most had well over two thousand converts.(55)

The mission schools set up by the Lutherans also showed consistent growth in the decades after the mission stations were established. At Bethanie it was reported that as early as 1868, thirty children were attending catechism classes.(56) In April 1894 there were

already four 'schools' (actually four classes - students were promoted from one 'school' to another) in operation with well over a hundred children in each.(57) In 1904 the missionary at Bethanie claimed that Bethanie boasted the "most organised school system" in the district.(58) He reported that 1 100 children were being taught at ten 'schools', by one 'qualified' male teacher, eight seminary-trained teachers and two 'women teachers'.(59) The report claimed that 7 283 children in the district had attended the Lutheran's schools.(60)

Nevertheless, even prior to the turn of the century new missions began to make their presence felt in the district. Amongst these were certain separatist sects such as the African Methodist Episcopal Church (AME). During the last decade of the nineteenth century, a black American missionary by the name of Morrison established an AME mission amongst the Fokeng. He drew a handful of converts from the Lutheran church but apparently did not recruit any of the 'influential' or 'respected' members of the Phokeng community.(61) In Luka, however, a village larger than Phokeng, where the Lutherans had had only limited success, the headmans' children joined the AME. This resulted in the church developing something of a following in the village.(62) The new mission did not, however, seriously rival the Lutheran's wider popularity. The most significant aspect of Morrison's involvement in the area, was the day-school he set up teaching the English language. The broad appeal of this school even prior to the Anglo-Boer war was such that most of Morrison's students were not members of his church, but Lutherans - many of them from Phokeng.(63)

The establishment of these new missions was resented and resisted by both the Lutheran missionaries and some of the chiefs. At Bethanie, Behrens complained that:

> "Ethiopianism is trying to gain ground and many of the bad people turn to it when one won't tolerate their sins and disrespectful ways. Solomon Masuloane (sic) ... separated himself from community in Bethanie, was ordained by the Ethiopians and is trying to break back into our congregation. He tries by all means to find some entry into Bethanie. He tried to get official permission from the chief's council, but this was denied him. Now he is trying to get a clique of Godless and those that have something on their conscience to gain entry for him."(64)

In the Fokeng chiefdom it was the arrival of Rev. Kenneth Spooner late in 1914, and his establishment of the Pentecostal Holiness Church at Phokeng, which provided an immediate challenge to the 'state church's' monopoly of control over the growth and direction of Christian doctrine. Spooner's Baptist method immediately attracted large numbers - especially women - due in part to its greater and more enthusiastic emphasis on congregational participation.(65) Within a short time two prominent Mokgatle families were in his congregation and the competition for the Christian souls of the Phokeng community was on. The immediate effect of the establishment of the new church, was that it served to draw substantial numbers of its congregation from the Lutheran mission, amongst them some of the more prominent and wealthy members. Equally rapid was the development of animosity between Spooner and Penzhorn. Penzhorn was quick to express his disapproval of Spooner, complaining that members of Saron had

> "... elected a pitchblack American preacher. This man does not belong to any church order, he is not committed to any church discipline ... He only speaks English and makes use of an interpreter. He lets himself be paid £14 church money a year and demands 2 shilling sixpence for each christening. And the people in their enthusiasm pay this, even though they weren't willing to pay us 5 shillings a year - and that to enjoy all the rights of the church order."(66)

Nkwapa Ramorwesi, a woman living in Phokeng when Spooner arrived in 1914, said that Penzhorn hated Spooner for settling there. This was apparently because Spooner ...

> "should have gone to areas that were backward and still unchristian."(67)

Penzhorn was by no means the only one who appears to have resented Spooner's presence. Thomas Rangaka, the son of one of the most prominent Lutherans to convert to Spooner's church described the early opposition of the chief to the Pentecostal Holiness Church. He went on to suggest that opposition to the Pentecostal Holiness Church was so great, that

> "... but for the prayers and the staunch support of his few adherents (it) would have effected Spooner's expulsion."(68)

On one occasion the church building was besieged until Spooner, disinclined to rely any longer on 'prayers and staunch support', elected to cycle into Rustenburg to call the police.(69) Rangaka recalled that sorcery was also resorted to in an attempt to frighten Spooner off. He bore witness to a number of occasions when Spooner

found his schoolroom covered with bloodstains and littered with feathers and pieces of raw meat.(70) At the height of the opposition to Spooner, Ahasia Mokgatle, one of the Chief's Lekgotla members, had his jaw broken by a rock thrown into the church during an evening service.(71)

Spooner was no less outspoken against 'heathen customs' such as polygamy and circumcision than were the Lutherans, and went even further in condemning the brewing and drinking of beer, and even smoking.(72) He did, however, recognise that "many of the converts still cling to their superstitious ideas."(73) This did not appear to inhibit the growth of his church.

From its establishment in 1914 and despite initial opposition in Phokeng, the Pentacostal Holiness Church grew throughout the district and beyond, establishing missions in six districts in the Transvaal and also in Natal.(74) While this was not exclusively the result of Spooner's influence, he was identified within the church structures as one of the leading figures in the church's work in South Africa. By 1930 there were forty two Pentacostal Holiness mission stations, thirty preachers, eight teachers and fourteen church buildings.(75) By Spooner's death in 1937, there were sixty churches, seven schools, twenty three secondary schools and two youth societies.(76)

Spooner appears to have had a particular appeal to the youth in the communities of the Rustenburg district. At Phokeng Spooner set up sporting facilities, not only for boys, but for women as well which,

according to Mokgatle, was an unprecedented idea in Phokeng society.(77) Soon afterwards, Penzhorn followed suit. From 1922, Spooner organised an annual 'youth camp meeting' involving religious and social activities. According to Spooner, these were instrumental in a 'religious youth revival' in Phokeng. As late as 1933 he claimed that 94 young men and women converted immediately after the camp of that year.(78)

The secular social benefits which Spooner organised are of particular significance. He initiated and organised a number of 'Native agriculture and craft shows' in Rustenburg in the three years before his death,(79) was instrumental in establishing a branch of the Joint Council of Europeans and Africans in Rustenburg,(80) and through his involvement in the Joint Council, established a medical clinic in Phokeng.(81) He also attempted to establish an 'industrial school for girls'(82) which will be discussed more fully below. The most appealing aspect of Spooner's church was, however, the day-school which he ran, which taught reading and writing in English.

There was considerable controversy between the two missions over the medium and method of education. Penzhorn believed that teaching should only be in the vernacular and that the education provided should be primarily religious in content. Thomas Rangaka reported that in Penzhorn's school

> "... the only medium of instruction was the vernacular. The most important books were the catechism and Bible history ... education ... was therefore in its elementary stage."(83)

The education provided in the schools at Bethanie, like that at Phokeng, was almost exclusively religious in character. Thus, when Behrens reported on the achievements in the sphere of education, he proudly claimed that:

> "The small people of this school have learnt well. They know nearly all the five main pieces of catechism but without being able to explain them."(84)

He rejected teaching in English on the basis that it threatened to restrict the religious character of the Lutheran education system.(85)

Penzhorn was also openly opposed to teaching in English and suggested that Spooner, who could neither read nor write Sotho, would lead the people astray from their 'culture and tradition'.(86) Penzhorn's school provided a primarily religious training and at the end point of schooling there was confirmation. Spooner, on the other hand, was seen as 'the first man to introduce western civilization'.(87) He was regarded as an educator as well as a preacher. Penzhorn's objections to Spooner's approach were vehement. He used to

> "... hunt for us, to search for those who were going to Mr. Spooner's place. We used to hide from Penzhorn and hid paper and pens from him too ... he did not want western civilization. He wanted us to remain ignorant ... he gave us no time at improving our level of education ... Mr. Spooner wanted to educate his fellow brothers."(88)

Despite Penzhorn, the obvious appeal of secular education grew as the local community at Phokeng became increasingly incorporated into the wider society. The appeal of Spooner's school, offering lessons in English and basic industrial skills, grew accordingly. By 1917 the school had grown from six to one hundred children and it became necessary for Spooner to employ another teacher.(89) In 1923 the school building had to be extended to cater for the increased number of pupils and by 1933 the school had classes up to standard six. The following year Spooner gained permission to open a boarding school.(90) Much to the irritation of Penzhorn, some of the staunchest Lutherans in the area used to send their children to Spooner's school. In fact, Naboth Mokgatle claims that Pedi children from as far as the eastern Transvaal came to learn at the school.(91) Indeed, it appears that it was only the actions of the Education Department which prevented the school from developing even further.(92)

It is particularly noteworthy that at both the Lutheran schools, as well as at Spooner's school, the pupils were predominantly female. As early as 1894, the missionary at Bethanie reported that the majority of his pupils were young girls.(93) Although the classes were mostly sexually segregated, the girls classes were considerably larger than the boys'. He went on to note that generally the girls were also better achievers at school and were less often absent from either school or examinations.(94) In contrast, he pointed out that

> "The achievements of the boys were often only slight ... The boys do not care as much about the school as the girls do. They have other things in their heads and often prove themselves reluctant to learn."(95)

In explaining this situation, the missionary suggested that generally boys attended school less regularly due mainly to the fact that their time was allocated to cattle hearding and 'other jobs for their parents'.(96)

The preponderance of women in the schools appears to have been part of a more general pattern as there tended to be a preponderance of women within the churches as well.(97) Pauw points out that this was also the case in Taung churches. He suggests that the preponderance of women in the churches was due mainly to their inferior positions in 'traditional society', and the potential offered within church organisation for female leadership and relatively uninhibited social association.(98) Naboth Mokgatle identified similar trends in Phokeng and noted the establishment, from an early date, of a 'women's union' within the churches. If one considers the restrictions on women's active participation at a public level in tribal affairs, the relative freedom to preach in church ceremonies can be seen as having had a particular attraction for women.(99)

Penzhorn noted the almost fanatical involvement of women in the church:

> "Our womens' unions are very quiet in some respects. But they don't know how to keep things in moderation. At the moment they have an hours singing practice after the evening service. Without question it would be better if they went home and looked after their children."(100)

On this basis it could be argued that womens' involvement in the church and their relative freedom of religious affiliation provided a potential escape from otherwise vigilant patriarchal control.(101) It appears that women were often inclined and free to affiliate to different churches from those of their husbands or fathers, even when the latter were not Christians.

> "Daar is baie gevalle waar die vrou 'n Kristen is maar nie die familie nie; of liewer waar die vader nie 'n Kristen is nie."(102)

Mokgatle too noted the relative freedom of women to affiliate to the church of their choice irrespective of whether their husbands did so or not. His own mother was a Lutheran Christian whilst his father was not. His parents were married according to both Christian and customary rites.(103) Both male and female children were encouraged to join the church and families were often divided into Christians and non-Christians, or Lutheran and separatist members.(104)

This is not to suggest that the conversion of young women was always encouraged. On occasion the question of female church affiliation proved to be the source of considerable conflict between young women and their parents. Spooner himself quoted an example of this which is reproduced in detail here:

> "The class began the next day, the Devil also began, one girl is taken out by force by her unbelieving parents, but the class goes on, in about two weeks time another mother comes:- 'Moruti, I do not want my daughter to be baptized.' Well mother, I replied, if you are prepared to give God an answer for the soul of your girl, you can take her away, this mother goes away but the daughter continues to attend class. The day of the baptismal service came off which was the 17th December, 1933. Now see what takes place - Thirteen candidates are lined up on the brink of the river, your brother is standing in the midst of a big pool, one after another is being baptized, crowds of people are lined up on either side of the river, the saints are singing and praising God, suddenly there is a great commotion, one of the girls rushes into the water 'Moruti, baptize me quick!' Her mother who by this time had got to the river, rushed right into the water - 'Moruti, do not baptize this girl, her father will kill me, he does not know anything about her being baptized today,' The girl at this time is holding on to me and the mother holding on to the girl. One of the men enters the water to carry off the mother, the girl is baptized and goes off shouting and praising God. To make a long story short, that afternoon, the father, mother and uncle of the girl all heathen, gave the girl a severe beating, when I saw her some time afterwards, she told me how badly they had treated her, but said she, 'While they were all beating me, I never cried, I never felt angry, I was only glad that I was able to suffer for Christ's sake.' But mind you they really meant to kill her, it was only God who helped her. They have never permitted her to attend church since, but we are praying for her and them as well."(105)

In addition to providing young women with a degree of 'freedom', the church offered greater practical opportunities through education and for young women as much as for men, this was possibly the most important area of mission activity. A great many parents, irrespective of their sentiments about Christianity, were extremely enthusiastic about their children, both male and female attending

the various mission schools. As labour migration became more common, (even amongst women), so education, and in particular basic literacy skills, were seen as a means of material advancement. Once again, on the question of education for women the different missionaries amongst the Fokeng had very different outlooks. Penzhorn had his perspective on education for women firmly rooted within his notion of maintaining their specific 'culture and tradition'.

> "We are teaching them the real and proper domestic science; not to make the young girls suitable as servants for the whites, but to make the young girls suitable as assistants in the house, and as future wives for their husbands, and domestic science of that kind teaches them to sweep in the corners and to build walls and to make a floor. They have to cook pap and fetch water and go to the gardens. That is domestic science, and the object is to make the girl a fit wife for her future husband."(106)

Beyond this notion of domestic science, Penzhorn was openly opposed to secular education in the mission schools. For some who attended Penzhorn's school, this limited the usefulness of the education they received. Evelyn Rakola who attended Penzhorn's school commented:

> "Nothing really caused me to drop out (of school), but I felt that ... here was no progress in as far as education is concerned at that time."(107)

Spooner's perspective on the subject was clearly different. Thomas Rangaka, one of his first pupils, described Spooner's approach to education. He pointed out that from the outset Spooner and his wife prioritized an 'industrial training' for their students; woodwork

construction for men and, of special significance here, needlework, laundry work and cooking for the women.(108) He also encouraged the development of home industry amongst women, assisting in the sales of decorated clay pots and baskets.(109)

Eventually, due to the demand from local women for this training, the Spooners could no longer cope with the increasing numbers. As a result Spooner attempted to establish an 'industrial school' for the women of the district, specifically designed to provide them with marketable skills as domestic wage labourers. The school was to offer an 18 month course training 'servants' in cooking, laundry work, mending and darning, and household duties.(110) This project was seen by Spooner as being valuable to both the 'European ladies' of the Rustenburg district, and the local black female population.

> "Such a school would be of great benefit to the poor ignorant native girl who has no possible insight into European customs or culture, and who, when she goes to work, finds herself in this new environment ..."(111)

In 1936, a year before Spooner's death, the Native Affairs Department turned down his application for a loan in order to set up the school. The benefit to 'the natives' was seen as being limited and, most importantly, the department was concerned at the likelihood of being flooded with similar requests.(112) Despite this setback, it is claimed that until his death the white population of Rustenburg always applied to Spooner for 'intelligent' domestic servants.(113)

At a time when young men and women from the district were increasingly migrating to the major industrial centres, the 'secular' education which Spooner offered had a very tangible material appeal for them. In particular, women who were migrating and who were almost exclusively taking up jobs in domestic employment[114] benefitted considerably from the advantages of the 'industrial' and literacy skills provided in Spooner's school.

Undoubtedly there were many who preferred to get their training through experience in domestic service locally, before migrating to the cities, and who did not see the value of formal education in this area. Nkwapo Ramorwesi, who worked in Kroondal as a domestic servant for six months before migrating to Johannesburg, was one of these.

> "Kroondal was like a university of domestic work."[115]

The advantages of education which women were able to secure were not so much ideological as material. The practical education which they received at Spooner's school equipped women with the skills and confidence which facilitated a degree of independence. It certainly contributed to broadening of the choices available to women, who otherwise had an extremely limited degree of control over their own lives and labour. This, more than any other single factor, explains the popularity of Spooner's school amongst women of the district.

The end point in education was generally confirmation. This applied as much to those women who attended Spooner's school, as those of the Lutheran school. The result of this was, that of the women interviewed, few advanced beyond standard two or three. (By the time of his death, Spooner's school had classes up to standard seven).

> "It was common practice to leave school at a certain age and attend confirmation classes. During those days one simply took it for granted that once one had been confirmed in church, then school days were over ... we were matured and old enough to look for a job in the white area ..."(116)

This woman also expressed the feeling that, although she had only attained a standard three level of education, the crucial advantage was in having learned some English. Anyone who reached standard four or five was considered educated.(117)

Penzhorn directed tirades against the dangers of moral decay inherent in these attitudes and in the education fostered in the Pentacostal Holiness school.

> "The unbridled, undisciplined and unruly life of the youth tends to increase rather than decrease, almost all the virgins are throwing away their honour ... As soon as the children are confirmed, they move to the towns and are left to their own devices. Each girl has her own man, and each man his woman. Even the young girls admit this."(118)

By contrast, some of the perceived advantages of Spooner's education over that of the Lutherans were summarised by Thomas Rangaka:

> "From the very onset he (Spooner) determined to give his people the education that would make them take their place among other races with open minds. It was an educational policy that aimed at making of the black men Christian citizens of South Africa and the world. It was not a cramped education only for the particular church doctrine and the immediate environs of Phokeng."(119)

The main appeal of Spooner's school appears to have been the practical utility of the education offered there, especially the skills of reading and writing in English. However, the ideological content of this education was also clearly distinct from that presented by other missions of the district.

III Christian Peasants and Politics

The educational conservatism of the Lutheran missionaries was rooted in parternalistic religious and political attitudes. This is evident in the statement of the missionary at Bethanie:

> "... we will need much love and patience, a wise sense and a firm hand, since the blacks are so unruly and freedom greedy ... We need to pray ... so that the Lord may instill in them, the spirit of strength, love and discipline."(120)

It was in this light that the issue of tuition in English met with the disapproval of the Lutheran missionaries.

> "Amongst the native population the drive to social and political equality goes together with the longing for English tuition and European education ... they are expecting great things from the new school system and drive and force the missionaries forward so that it will hardly be possible to keep the school system in the old way."(121)

The Lutheran mission education was tailored to suit a 'subject people' who could not 'rule themselves, whether in regard to church or state'(122) The perceived political responsibilities and priorities of the Lutherans informed the education which they provided and the prevalent viewpoint during this time was outlined by the missionary at Bethanie.

> "The mission in Africa still faces difficult tasks; she has to go to work very carefully so that she may not be reproached that she aided the natives in their revolutionary efforts through injudicious work ... The Europeans are the Lords of the lands and have the ability to govern in them. It is not our business to help the natives to political rights or to put unripe political ideas into their heads. We must teach the people that it is the Christian's duty to obey the laws, for God's sake, and that you can only obtain the benevolence of the almighty through good behaviour and loyal, honest work ..."(123)

Spooner's approach was in direct contrast to that of the Lutherans. Naboth Mokgatle noted the distinctive ideological content to Spooner's lessons especially through the contemporary application of biblical lessons such as that of Moses and the Israelites in Egypt.

> "He then posed a question to all of us: where is Africa? how can you get to Africa? The trick nature of the question caught us all unawares and none of us knew the answer. He repeated the question but no hand went up. He looked at us with amazement and asked, 'Don't you know where Africa is?' Angrily he said, 'You stupid children, stand up.' He lined us up against the wall, ordered us to stretch out our hands, and each one of us got a beating with a stick. Afterwards he stamped hard with his foot on the floor and said, 'This is Africa you are standing on.' He made us stamp hard three times on the floor shouting, 'This is Africa'.

> From that day I never forgot that Egypt was in Africa, not elsewhere as the Bible seemed to suggest to us."(124)

Even more overtly political topics were discussed in these classes. Mokgatle recalls introducing a debate in the debating class on "whether the Europeans should leave Africa and go back to Europe or whether they should stay?", (although he claimed he was unaware of the political significance of the question until his later involvement in African politics in the towns).(125) Not surprisingly, Penzhorn was openly opposed to this kind of education, drawing attention to the 'dangers' of over-hasty, educational advancement amongst the people not yet developed or 'civilized' enough to cope responsibly with it.(126) Naomi Setshedi who grew up in Phokeng during Spooner's time there, suggests that those who had been taught by him coped more than adequately.

> "Most of the people around here who were taught by the Rev. Spooner ... are fluent in English and they know the history of this village ... many of those who went to Rev. Spooner's school are leaders, they are very active in the community and seem to be interested in the welfare of the community."(127)

However, it would be misleading to infer too much about Spooner's political influence in the district. The fact that he was a West Indian and appears to have had Garveyite contacts and an American background, should not lead to an oversimplification of his political influence. Such misinterpretations have characterized recent works on the subject. Both Pirio(128) and Hill(129) have attempted to demonstrate the influence of American Garveyite theology in the development of South African nationalism. Although

neither deal specifically with Spooner, both attempt, in rather crude terms, to explain the foreign influence of black Americans or West Indians, and the 'Africa for the Africans' slogan emanating from Marcus Garvey's movement, in the formative development of African resistance, both nationalist and local.

> "... the mass appeal of Garvey's movement in South Africa rested on not merely its identification with Afro-Americans, but, more importantly, its connection with America."(130)

By contrast, Rich argues that the direct Garveyite influence of American origins, was limited.(131) He suggests that the particular strains of Garveyite ideology only expressed themselves in South African Ethiopianist churches to the extent that this ideological content served as a means of articulating local grievances. Despite this, Rich suggests that the local millenarian character of Ethiopianism was informed by foreign movements and particularly Afro-American ideology. Commenting on the African Methodist Episcopal Church, a church movement with a substantial following in the Rustenburg district during the 1920s, Rich suggests that the support which these churches mobilised in the Transvaal was due to the growing threat of land dispossession to rural African communities. Nonetheless, Rich notes that

> "Some of this appeal seems to have been of a millenarian nature at the popular level '... informing into the Native mind the feeling that some day with the help of their Ethiopian brothers in America, they will become the possessors of South Africa!'"(132)

However, the evidence of millenarian influence in instances such as the Bulhoek massacre in 1920, cannot be generalised in the Transvaal or elsewhere. This was often a somewhat alarmist tendency of the commercial press in the decade after Bulhoek. In 1922 the Sunday Times ran an article entitled: "Bolshevism for African Natives - World-wide Plot - Red Missionaries Coming from Russia", in which it was claimed

> "... that at a conference of Russian Soviets held in Moscow ... it was decided to send Bolshevist missionaries to forment revolution among the negroes of America and the Native races of South Africa."(133)

More specifically, an article in The Star in January 1928 entitled "The Natives - Spread of Unsettling Propaganda - Garveyism in Africa", claimed not only that Garveyism was 'capturing the imagination of the black people of Africa', but that:

> "Garveyism as preached today advocates the use of force to accomplish its ends, and is therefore incompatable with European control over Africa".(134)

These alarmist reports must be read in the context of the Transkeian experience during the early 1920s outlined by both Edgar(135) and Beinart and Bundy.(136) However, these views were also expressed in relation to the Rustenburg district. As soon as the disturbances at Phokeng became public knowledge in 1924, there were sensationalist cries of "Another Bulhoek". Again, The Star was responsible for this headline to an article on the subject. The article went on to say

> "... there is imminent danger of bloodshed which may not be entirely confined to the warring factions. The position has existed for some time, and in the opinion of men familiar with native tribal matters in the district, it may lead to a tragedy similar to that which occurred at Bulhoek."(137)

The similarities between the events in the Rustenburg district and those at Bulhoek are, however, extremely difficult to identify, especially in relation to the influence of Ethiopian and Garveyite millenarianism. In fact there appears to have been a notable absence of any of the millenarian rhetoric characteristic of Garveyite influence. What is more, Spooner, who was identified in the early years as central to the unrest, could not under any circumstances have been accused of stirring up racial hatred. On the contrary, his role in the Joint Council of Europeans and Africans in Rustenburg was devoted to diffusing 'racial tensions and misunderstanding' and he was described by the Rustenburg Herald as

> "... a mediator between two races in South Africa, a good citizen who was held in esteem by Europeans and loved and respected by all natives who knew him."(138)

His own son-in-law and later successor as the leader of the Pentacostal Holiness Church in Phokeng, made clear Spooner's concern 'to make his people law abiding and peaceful citizens'.(139) It therefore seems that Spooner's concern and motivation was theocentric rather than explicity political, his influence in the disputes of the district, material rather than simply ideological, was based on the practical material benefits which he was able to offer.

The ideological influence of separatist churches in the Rustenburg district was essentially defined by the localised struggles and material conditions. This is especially evident in the subtle challenge which these churches posed to the influence and authority which chiefs were attempting to assert via the established 'state churches'. In this respect, the evidence suggests that the contradictory effects of Christian influence, resulted in the Christian church becoming a vehicle for the expression of political and ideological conflicts which had concrete material origins in the struggle for control of rural resources. This is particularly evident in the way that the varied content of mission education qualitatively served the particular material needs of different sectors of these Rustenburg communities.

Even prior to the turn of the century, the missionary at Bethanie had noted the influence of the Christian church in transforming the material lifestyle of Tswana peasant farmers.

> "The life and ways (of Christians) here are becoming more and more like Europeans ... After having first learned to hold dear Christianity, they are now learning to value and appreciate the culture."(140)

However, the missionary was also aware of the subversive potential of these developments.

> "Now it has got to the stage, where the indigenous people, especially the Christians, find that they can use everything that is available in the shop. For example, years ago,

> nobody here knew what a petroleum lamp was. Now we find one burning in every hut and house at night. The people feel that they can no longer manage without a pertroleum lamp ... The people are learning to use the world and are nearly living like whites. Progress is in such giant steps, that one gets scared and must ask oneself, 'where will it end?' It is imminent that luxury will become widespread and it takes much effort to work against that in the community. Each one now thinks he is justified in buying and wearing what he wishes and can pay for. And since one doesn't find such class differences here as one does in Germany, there is nothing much one can do in that direction. The best thing would be for me as preacher and teacher to prohibit any noticeable luxury items, without discrimination. In this case it is, however, difficult to find the limit since the whites set the example in their lifestyle and the blacks feel themselves justified in following their example. How long one can contain corruption, the Lord alone knows. The prosperity is after all a blessing from the Lord. But the misuse of earthly things will lead the people into corruption."(141)

There are a number of additional factors which serve to explain the manner in which Christian mission influence inserted itself into local politics. These factors are best exposed by reference to the experiences described by William Beinart in Pondoland during this same period. Beinart has noted that in Pondoland, where there was a high degree of direct state intervention in peasant society, the missions were generally associated with the state. The result, in the context of extensive resistance to state intervention, was the very limited success of the conventional Christian missions in securing a popular following. Beinart estimates the overall figure of affiliation to these missions in Pondoland at only five per cent.(142) The Rustenburg district, however, was relatively cushioned from similar direct state intervention in the early decades of the century, and established chiefs were less directly

associated with the state. Thus early chiefly support for the missions resulted in a much higher degree of Christian church popularity than was the case in Pondoland. Breutz suggests that by the 1940s there was a Christian majority in every tribe in the district and in most this was well above fifty per cent. In some chiefdoms he claims that almost the entire population was Christian.(143)

Beinart demonstrates that the effect of conventional missions in Pondoland was to complement the power of chiefs in the district.(144) This he suggests was due to mission educated Christians adopting a 'progressive' and 'westernized' material culture much in keeping with that being fostered by the chiefs. As a result Beinart concludes:

> "The wealthier chiefly and Christian families in Pondoland were, to some extent, able to entrench their position through their political power, their cash income, their access to education and rural resources."(145)

This, Beinart continues, brought them into considerable conflict with 'traditionalists' who sought to defend their own culture and material existence.(146) In this context, Beinart identifies the expansion of Ethiopian church movements in Pondoland as being encouraged by chiefs who were struggling to maintain or extend their positions of control(147)

Beinart identifies the role of education, provided by the missions, as one of the means of avoiding migrancy(148) He suggests that

this factor was central to the alliance between 'progressive' educated Christians and chiefly families, as it was the state administrative system in Pondoland, which, under the auspices of the Council system, provided salaried jobs in the rural areas. Jobs as clerks, interpreters, police, prison orderlies, dipping assistants, agricultural demonstrators and teachers all demanded education up to standard four and this education was provided, if not always funded, by the missions.(149)

> "It was the very fact that the wealthier peasants and petty entrepreneurs had, by the 1920s and 1930s, become dependent on education and salaried jobs that diffused conflict between them and the chiefs. As in the case of the chiefs, they had become a group more dependent on the state."(150)

The Rustenburg experience differs considerably from that of Pondoland. The relative absence of direct state intervention and the failure of the council system to take root prior to the late 1930s, meant that there was a dearth of salaried job opportunities within the rural reserves. Even those African entrepreneurs enterprising enough to attempt to establish local businesses, seldom survived for more than a couple of years.(151) Those few who did succeed in establishing a trade, generally returned to agricultural production after a few years anyway.(152) Rev. Stegmann, in evidence to the NEC (1930-2) suggested that in fact those educated Africans living in the reserves were frustrated by the lack of job opportunities consonant with their levels of education.(153) Therefore, the practical value of education appears to have been its usefulness in securing the most favourable jobs in the urban areas.

Even Penzhorn noted that most of the local inhabitants saw education as a means of securing a better regular income in wage labour.(154) This has been further corroborated in interviews with women from the area. Mission education was readily available to most children in the district. Breutz points out that by the end of the 1940s at least fifty percent of all eligible children were attending school and in many chiefdoms this figure was considerably higher.(155) As early as 1930 Penzhorn claimed that there were fifty three Lutheran schools alone in the district.(156) It was even suggested that many younger members of the chiefdoms were migrating to the towns in order to secure a better education and this argument was reflected in the report of the NEC.(157)

However, the position of educated Christians who were not necessarily engaged in regular labour migration, needs to be elaborated on. In the Rustenburg district, where established chiefs were fighting to protect their traditional control over tribute (in this period in the form of migrant earnings) and the distribution of land, and where state intervention was relatively limited, the material basis for any alliance between chiefs and 'progressive' peasant agriculturalists was simply non-existant. Indeed, these chiefly 'traditional privileges' flew directly in the face of both migrants who sought to assert their independent control over their earnings, and 'progressive' farmers who were concerned to develop or expand their productive base and who protested against 'archaic' forms of land distribution.

The result of these trends was that by 1930, the missionaries who had historically been seen to bolster chiefly authority, were being blamed for tribal divisions.(158) Furthermore, the chiefs of the district demanded that the responsibility for education be removed from the missions(159) and some even motivated for the establishment of 'tribal schools'.(160) Even Penzhorn acknowledged that mission rivalry, particularly in the field of education, exacerbated factionalism within the chiefdoms.(161)

It therefore appears that the different functions performed by different mission groupings in the area become a site of struggle which gave expression to the more fundamental conflicts in these Rustenburg chiefdoms. The activities of Rev. Spooner in Phokeng; who taught English as opposed to the vernacular, provided a secular rather than exclusively religious school curriculum, established 'Native' agricultural shows and the Joint Council of Europeans and Natives and who campaigned to get individuals exempted from poll tax or pass laws;(162) all directly served the material interests of 'progressive and westernized' peasants and in many instances of migrants as well. This explanation also gives materialist content to the role played by separatist church movements in the area, (in particular the Pentacostal Holiness Church) in their challenge to the ideological authority of 'state churches' associated with the chiefs. Rather than defusing conflicts between chiefs and 'progressives' as identified by Beinart,(163) these church movements served to exacerbate them.

CHAPTER 6 FOOTNOTES

1. Mokgatle, N., Autobiography of An Unknown South African, London: Hurst and Co. (1971), p. 57.

2. JUS. 371, 3/1105/23, Divisional C.I. Officer Tvl. to Deputy Commissioner S.A.P. (30/10/24).

3. ibid., and NTS, 316, 15/55, Confidential letter: Ernest Stubbs to Garthorne (SNA) (15/10/1924).

4. ibid.

5. Breutz, P.L., The Tribes of Rustenburg and Pilansberg Districts, Pretoria : Department of Native Affairs Ethnological Publications, No. 28 (1953), p. 94.

6. ibid., p. 100.

7. ibid., p. 42.

8. ibid., pp. 42-3.

9. Mokgatle, N., Autobiography, pp. 56-7. Naboth Mokgatle was grandson to Chief Mokgatle Mokgatle. August Mokgatle was his uncle. Naboth was born in Phokeng in 1911 and lived there until the early 1930s.

10. Interview with Setswammung Mokgatle (17/3/83), p. 4. All of the interviews cited in this chapter are with elderly women who grew up in Phokeng. I owe thanks to Belinda Bozzoli who drew my attention to these resources, as well as to the African Studies Institute under the auspices of which the interviews were conducted, and which made the interviews available to me.

11. Mokgatle, N., Autobiography, p. 16.

12. The Lutherans were not the first missionaries to set foot in the district. Mokgatle refers to a Dutch Reformed missionary who approached Mokgatle Mokgatle, chief of the Fokeng at the time, to request that he be permitted to establish a mission station in the village. The chief refused him permission, responding in the following way:

> "We cannot accept your religion and the God you urge us to accept and believe in. We have our own way of worshipping God and the way we think we can reach him. We think that our dead ancestors are the way we can speak to God. Through them we firmly believe he can speak to us, by accepting our humble requests to him or rejecting them. We, therefore, think that it would serve no useful purpose for you or ourselves, to join together and worship the God you have spoken to us about. The best thing we think is that you pass on to try elsewhere."

ibid., p. 55.

It was just a few years later that Penzhorn was invited to the district.

13. Breutz, P.L., The Tribes, p. 43. Apart from the stations at Phokeng and Bethanie some of the others established were:

1867	at Kana on the farm Reinskoyalskraal amongst the Fokeng;
1869	at Ratsegaestad on the farm Hartbeesfontein (Sichar station; Rev. Fuhls) amongst the Kwena ba Modimosana ba Maake under Chief Legwale;
1871	at Pella Location amongst the Kwena ba Modimosana ba Matlhaku under Chief Mosome (Rev. Springhorn);
1872-4	at Tlolwe's Location on the farm Grootwagendrift (station Mahanaim) amongst the Tlokwa ba ga Bogatsu under Chief Tlolwe;
1874	at Mogale's Location on the farm Boshfontein (station Ebenezer) amongst the Ba Pô ba Mogale under Chief Mogale;
1882	at Selonskraal (Rev. Penzhorn) amongst the Kwena ba Modimosana ba Mmatau under Chief Maselwane.

14. Mokgatle, N., Autobiography, pp. 5; 9-10; 58-60; S.A.B.A., K/26, Emmett to NEC., P. 1075; Spooner, K.E.M., A Sketch of Native Life in South Africa, pp. 15-6 (I owe thanks to Belinda Bozzoli who provided me with this pamphlet. No publisher or date were listed in this publication.); S.A.B.A. K/26, Stegmann to NEC., p. 1058.

15. S.A.B.A., K/26, Emmett to NEC., pp. 1072-5.

16. Interview with Mmamatlakala Moje (1/10/1982), p. 6. Moje pointed out that well into the 1920s young men and women were going to circumcision schools at Mabieskraal.

17. Breutz, P.L., The Tribes, p. 136.

18. The Lutheran missionary at Bethanie quoted an example as early as February 1867, when a 'sub-chief' named 'Koors' was married by Christian rites. He gave up five of his six wives and remained married only to his first wife. The missionary noted seven other similar cases. Hermannsburger Missionblatt (February 1867), pp. 23-4.

19. Setswammung Mokgatle suggested that occasionally, male converts would do this clandestinely by marrying only one wife whilst the others remained outside the church and were married by traditional rites. She quoted the example of chief Mokgatle Mokgatle himself who, having invited the Lutherans to settle in Phokeng, was only prepared to give up two of his five wives. Interview with Setswammung Mokgatle (17/3/83), p.3.

20. This is stated by Breutz for every chiefdom in the district. Also, Spooner, K.E.M., Sketches, p. 15; and S.A.B.A. K/26, Emmett to NEC., p. 1075.

21. Mokgatle, N., Autobiography, p.12. There is a considerable body of anthropologically oriented work, both on the Tswana and other groups, which situates both polygamy and circumcision within 'precapitalist' African communities. Some of these articles focus on the family unit, locating polygamy, circumcision and brideprice practices within localised relations of social, ideological and economic control. Amongst those read are: Breutz, P.L., The Tribes, Shapera, I., 'The Old Bantu Culture', in Schapera, I., (ed) Western Civilization and the Natives of South Africa, London : Routledge and Kegan Paul Ltd., (1967), pp.3-35; Schapera, I., 'Present Day Life in the Native Reserves', in Shapera, I., Western Civilization, pp.39-61; Shapera, I., Tribal Legislation amongst the Tswana of the Bechuana Protectorate, London School of Economics and Science, Monographs on Social Anthropology No. 9., London : Percy Lund, Humphries and Co. Ltd. (1943); Shapera, I., 'The Nature and Sources of Tswana Law', in Cohen, D.L., and Parsons, J.P., (eds) Politics and Society in Botswana, U.B.L.S. Readings, Vol. II, Department of Government and Administration, University of Botswana, Lesotho and Swaziland (1974), pp.137-154; Kinsman, M., 'Notes on the Southern Tswana Social Formation', History Workshop, University of the Witwatersrand (1981); Comaroff, J.L., and Roberts, S., Rules and Processes. The Cultural Logic of Dispute in an African Context, Chicago : University of Chicago Press (1981); Harries, P., 'Kinship, Ideology and the Origins of Migrant Labour', Centre of Internatinal and Area Studies Conference : Class Formation, Culture and Consciousness : The Making of Modern South Africa, University of London (January 1980); Harries, P., 'Migrants and Marriage : The Role of Chiefs and Elders in Labour Movements from Pre-Colonial Southern Mozambique to South Africa', Centre for African Studies, University of Cape Town (4th May 1979); and Beinart, W., and Delius, P., 'The Family and Early Migrancy in Southern Africa', Institute of Commonwealth Studies Paper, School of Oriental and African Studies, University of London (9th May 1979).

22. Mokgatle, N., Autobiography, p.6.

23. See Chapter II above, footnote (65).

24. Interview with Setswammung Mokgatle, p.2.

25. In retrospect Naboth Mokgatle viewed the 'collaboraion of the church and colonial administration in this regard as a clear part of the 'colonial strategy of subjugation.' Mokgatle, N., Autobiography, p.25-8.

26. ibid., p.26. In 1908 the Lutheran Missionary of Bethanie complained about the widespread 'practices of witchcraft', claiming that "the sins particularly against the sixth commandment are more on the increase than on the decrease." Hermannsburger Missionblatt (December 1908), pp.374-5.

27. S.A.B.A., K/26, Chief Pilane to NEC., p. 1115.

28. Breutz, P.L., The Tribes, pp. 71-2.

29. Hermannsburger Missionblatt (February 1867), p.24.

30. S.A.B.A., K/26, Penzhorn to NEC., p.1003; Stegmann to NEC., p.1030.

31. S.A.B.A., K/26, Penzhorn to NEC., State Archives, K/26, p.1002-3.

32. Spooner, K.E.M., A Sketch, p.18.

33. ibid.

34. Schapera, I., 'Present Day Life in the Native Reserves', in 'Schapera, I., (ed) Western Civilization and the Natives of South Africa, London : Routledge and Kegan Paul Ltd. (1967), pp. 59-60. One example of such conflict was recounted by Penzhorn. Chief Tumagole of the Fokeng became engaged in a lengthy dispute with the church council over who organised the functioning of the local mission school. Hermannsburger Missionblatt (January 1897), pp.9-12.

35. See Chapter II above, pp.87-8.

36. ibid., p.16.

37. Breutz, P.L., The Tribes, p. 128.

38. Hermannsburger Missionblatt (December 1868), pp.226-31.

39. ibid., (February 1867), pp.27-8; and (October 1868), p.196.

40. ibid., (July 1910), p.195.

41. Pauw, B.A., Religion in a Tswana Chiefdom, Cape Town : Oxford University Press (1964), p.60.

42. Hermannsburger Missionblatt (July 1910), p. 195.

43. ibid.

44. Mokgatle, N., Autobiography, p.60. One example mentioned by Mokgatle was his uncle Mogale, an old man who was 'an expert in tribal law and custom.' Although Mogale's quoted comments are

somewhat cryptic, they do reflect the contradictory influence of 'mission imperialism' as defined by Dachs. Dachs, A.J., 'Mission Imperialism : The Case of Bechuanaland', in Cohen, D.L., and Parson, J.P., (eds) Politics in Botswana, pp.48-60. Dachs pointed out that the Christian missions simultaneously undermined customary forms of ideological control whilst developing and reinforcing transformed sources of political authority. Mogale's views quoted below, reflect both concern at the breakdown of 'tribal discipline' resulting from the influence of the Christian church, as well as the expediency of 'moving with the times'.

> "Though Mogale was delighted with the system of Christianity, he said that it had brought with it liberal ideas which brough the breakdown of tribal discipline. He cited the fact that in the days of his boyhood we could not be sitting there with him listening to what he had to tell us. Boys, he said, would have been grouped together in the clan being told stories about discipline, respect for elders, tribal traditions, customs and all they were expected to know. He went on to say that when we grew up to be men and women we would have nothing to tell our children about our background and its things which kept our tribe together. Then I asked him why he became a Christian, and he replied by making an illustration that when you swim in the river with other people, you must see which way they are swimming, and swim that way too. If, he explained, you decide to swim in the opposite way, you will drown."

Mokgatle, N., Autobiography, p.11.

45. Hermannsburger Missionblatt (October 1914), p.313.

46. ibid. (July 1910), p.195.

47. ibid. (January 1910), p.17.

48. ibid.

49. ibid. (July 1910), pp. 195-6.

50. This was clear in the conflict between Penzhorn and Chief Tumagole over the issue of control over the church schools. See footnote number 34 above.

51. Hermannsburger Missionblatt (July 1910), p.196.

52. Mokgatle, N., Autobiography, p. 65.

53. S.A.B.A., K/26, Penzhorn to NEC., p. 987.

54. Hermannsburger Missionblatt (July 1940), p.76.

55. Breutz, P.L., The Tribes, p. 43.

56. Hermannsburger Missionblatt (October 1868), p.195.

57. ibid. (April 1894), p.58.

58. ibid.

59. ibid., p.59.

60. ibid., p.60.

61. Mokgatle, N., Autobiography, p. 68.

62. ibid., p. 67. It is difficult to offer a satisfactory explanation of why the Lutheran church failed to gain a following at Luka. It can only be speculated that the relative autonomy of this outlying branch of the Fokeng, served to 'dilute' the effect of the chief's close association with the Lutheran mission resulting in its less pervasive popular appeal.

63. ibid., pp. 67 - 9. Mokgatle's account of the AME's establishment and of Morrison's influence, is the only one I have been able to trace. As a result this account is somewhat subjective. The later responses to Spooner's school and the education in English provided there, would appear to bear out the trends outlined by Mokgatle. However, these trends are more easily explained for the 1920s and 1930s than for the earlier period. Mokgatle's explanation does, however, bear repetition:

> "The people were aware that the white man's rule was spreading all over the country and therefore it was essential to get prepared and to learn his language. Those men of my tribe who had been to Kimberley to work for money in the claims had had contact with the English people there and were impressed by them and found them very clever; they found no comparison between them and the Dutch people they knew. Although the Anglo-Boer war had not broken out, they could sense that eventually the Englishman, with his cleverness, was bound to make an impact on the whole country."

64. Hermannsburger Missionblatt (December 1908), pp.375-6.

65. Mokgatle makes specific mention of the appeal of outdoor baptismal ceremonies. Also he noted

> "that in his church the priest did not have to pray for all the congregation; when the time for prayer came, everyone must make his or her own appeal to God."

Mokgatle, N., Autobiography, p.74.

66. Hermannsburger Missionblatt (October 1914), pp.313-5.

67. Interview with Nkwapa Ramorwesi, (undated), pp. 30-31.

68. Rangaka, T., in Mrs. K.E.M. Spooner, A.E. Robinson, Dr. P.F. Beacham, (eds), Sketches of the Life of K.E.M. Spooner, p. 60, (undated). Once again I owe a debt of gratitude to Belinda Bozzoli who gave me this article. Also Spooner, K.E.M. A Sketch of Native Life in South Africa, pp. 12 - 13 (Undated).

69. ibid.

70. Tom Rangaka, in Mrs. K.E.M. Spooner, et.al. (eds.) Sketches, p. 61.

71. ibid., p. 78.

72. Spooner, K.E.M., A Sketch of Native Life, pp. 20, 30.

73. ibid., p. 30.

74. Spooner to Rev. P.F. Beacham, Greenville, U.S.A., (17/10/1955), in Spooner K.E.M. (Mrs.), et.al., P.F., (eds.) Sketches, p. 84.

75. ibid., p.101.

76. Rev. J.W. Brooks, 'Rev. Spooner as I knew him', in ibid., p. 49.

77. Mokgatle, N., Autobiography, p. 145.

78. K.E.M. Spooner and Wife to Prayer Helper (22/1/1934). This correspondence was given to me by Belinda Bozzoli. Its origin is unclear.

79. 'The Late Reverend Kenneth E.M. Spooner', The Rustenburg Herald (5/3/1937).

80. References to Spooner's central involvement in this area in Mrs. K.E.M. Spooner et.al (eds.) Sketches, by G. Thackeray (then resident Rustenburg Magistrate), p. 10; Mrs. E. McGregor (chairperson of the Rustenburg branch of the Joint Council), pp. 17-18; and Thomas Rangaka, p. 65; also pp. 38; 70.

81. Mrs. E. McGregor in ibid., p. 17.

82. N.T.S. 28/5, 182/302, Native Industrial School for girls : Rustenburg (1935-6).

83. Thomas Rangaka in Sketches Mrs. K.E.M. Spooner et.al. (eds.), p. 55.

84. Hermannsburger Missionblatt (April 1894), pp. 58-9.

85. ibid., Report (1904), p.22.

86. Mokgatle, N., Autobiography, p. 78.

87. Interview with Ernestina Mekgwe (undated), p. 8.

88. ibid., pp. 9 - 10.

89. Thomas Rangaka in Mrs. K.E.M. Spooner et.al. (eds.) Sketches, p. 59.

90. ibid., p. 60.

91. Mokgatle, N., Autobiography, p. 141

92. Thomas Rangaka described this in somewhat conspiratorial terms:

> "His educational policy being in striking contrast to that of other missions working in the same place, aroused great antagonism. This was the inevitable result of keen competition on the educational field. He was accused of teaching English at the entire exclusion of the vernacular. The department and the local authorities were influenced by those who had easy access to the powers that be. In 1917, his school was nearly closed down. His policy, however, justified itself on the social life of the Bafokeng people. In this agitation and maneuvering he stood his ground with Christian fortitude. But he was handicapped by the fact of being classed as a native - the fact of his colour. From those at the head of affairs, attacks which caused him physical and mental unrest came to his school. Perhaps one of the greatest blows was that which came in 1936. The Education Department found some little excuse to deprive his school of its Standard VI class. This cut at the root of his high school scheme. It was the unkindest cut of all. It literally sent him to the grave. He was promised, however, that as soon as he was able to put up additional classrooms the Standard VI would be restored. He started on these so that he was still busy when sickness seized him. Even on his deathbed he was still enquiring after the progress of this building operation upon which hung the materialization of his highest ambition."

Thomas Rangaka in Mrs. K.E.M. Spooner et. al. (eds.) Sketches, pp. 61 - 2.

93. Hermannsburger Missionblatt (April 1894), p.35.

94. ibid., pp. 36 - 7.

95. ibid., p.38.

96. ibid., p.39.

97. S.A.B.A., K/26, Penzhorn to NEC., pp. 987 - 8.

98. Pauw, B.A., Religion, pp. 62; 70; 76; 85 - 94.

99. Mokgatle, N., Autobiography, p.63.

100. Hermannsburger Missionblatt (May 1933), pp. 67 - 68.

101. There is very little evidence within the correspondence of womens' formal involvement in the disputes and political processes within the Tswana chiefdoms of the district. However, this should not be taken to suggest that women were inactive in less formal forms of resistance to parental and chiefly control. Unfortunately the methodology needed to further explore this area is somewhat inconsistent with that adopted in the rest of this thesis, so that these issues cannot be pursued further here.

102. S.A.B.A., K/26, Penzhorn to NEC., p.987.

103. Mokgatle, N., Autobiography, p.1.

104. ibid., pp. 64 - 5.

105. K.E.M. Spooner and Wife to Prayer Helper (22/1/1934). Once again this correspondence by courtesy of Belinda Bozzoli.

106. S.A.B.A., K/26, Penzhorn to NEC., p.1006.

107. Interview with Evelyn Rakola, p.12.

108. Phillip Nameng in Mrs. K.E.M. Spooner et. al. (eds.) Sketches, pp. 105 - 6. Nameng was also one of Spooner's pupils. Also, Thomas Rangaka in ibid., p.61.

109. Maria Tlabakoe in ibid., p.78.

> "The making of claypots was inherited from my mother, I used to make some only for local supply. I did not think this could be developed into home industry that could pay me. The Rev. Spooner encouraged me to take some of the pots to the Native Agricultural Show. These were almost all bought by interested Europeans and natives. Later I learned to take them around various places myself and thereby found the making of claypots to be a paying proposition. He bought some pots from other parts of the country and brought these to help me improve the designs of the pots."

110. N.T.S., 2815, 182/302; K. Spooner to G. Thackwaray (Magistrate of Rustenburg) (27/7/1935).

111. ibid., K. Spooner to G. Thackwaray (2/12/1935).

112. ibid., SNA to Add. NC. 13/2/1936.

113. Thomas Rangaka in Mrs. K.E.M. Spooner et. al. (eds.) Sketches, p.59.

114. Almost without exception, those women who migrated entered domestic wage labour. The operation of informal urban-rural networks among Fokeng women helped them to secure these types of jobs for each other in urban areas. As a result, a large number of women from the district used to work as domestics in Parkview and Parktown in Johannesburg and Robertsheights in Pretoria. This was described in an interview with Naomi Setshedi 24/11/81, pp.7-8.

115. Interview with Nkwapo Ramorwesi, p.18.

116. ibid., p.9.

117. ibid., p.10.

118. Hermannsburger Missionblatt (April 1924), pp. 23 - 4.

119. Thomas Rangaka in Sketches, pp. 58 - 9.

> Thomas Rangaka was to become the principal of the Phokeng School. His father, Tau Dan Rangaka, was a prominent member of the Lutheran church in Phokeng prior to Spooner's arrival. He converted to the Pentacostal Holiness Church and became Spooner's right hand person, interpreting for him and eventually controlling five mission stations himself. Thomas, following in his father's footsteps, became assistant superintendent of the Pentecostal Holiness Church; in the Rustenburg and Brits districts.

120. Hermannsburger Missionblatt (January 1910), p.17.

121. ibid. Report (1904), pp. 22 - 3.

122. ibid., (July 1910), pp. 195 - 6.

123. ibid., pp. 196 - 7.

124. Mokgatle, N., Autobiography, p. 158.

125. ibid., p. 160.

126. S.A.B.A., K/26, Penzhorn to NEC., p. 993.

127. Interview with Naomi Setshedi, p. 42.

128. Pirio, G.A. 'The Role of Garveyism in the Making of the South African Working Classes and Namibian Nationalism', Marcus Garvey Papers, SSEC Joint Committee on South African Studies Conference Paper, U.C.L.A. (Sept. 1982).

129. Hill, R.A. 'Africa for the Africans' : Marcus Garvey, the UNIA and the Struggle for African Nationalism in South Africa in the 1920s', SSRC Joint Committee on South African Studies Conference Paper; South Africa in the Comparative Study of Class, Race and Nationalism, New York (8 - 12 Sept. 1982).

130. ibid., p. 40(a).

131. Rich, P., 'Black Peasants and Ethiopianism in South Africa: 1896-1915', Development Studies Group Conference on the History of Opposition in South Africa, Johannesburg : University of the Witwatersrand. (1978). [Subsequently published]

132. Quotation in ibid., p. 132.

133. The Sunday Times (10/12/1922). In a similar vein, Umteteli Wa Bantu took up the same issue just two days earlier. In an article simply entitled 'Communistic Atheism' the following was printed:

> "A Russian merchant lately arrived in Johannesburg from Moscow is credited with inside knowledge of Trotsky's aims. He is reported to have said among other things that at a recent conference of Soviet authorities in Moscow 'the proposal was actually made that South African Natives should be schooled in Bolshevist principles, and that not only the urban populations, but also the country peoples, both white and black, should be urged to accept the belief that there is no God.' We fancy that Mr. Trotzky would find himself up against a very tough proposition.
>
> Our Russian friend is understood to feel 'that Russia will send missionaries to this country who will visit the farms and backveld districts charged to convey the message of Atheism and class hatred to the people.'" Umteteli Wa Bantu (8/12/1922)

134. The Star (5/1/1923) p. 9. See also Manoedi, M.M., Garvey and Africa, New York Age Press (undated), found in NTS, 1681, 2/276.

135. Edgar, R., 'The Strange Career of Wellington Buthelezi, or Bantu Prophets in South Africa', Los Angeles : U.C.L.A. (1975).

136. Beinart, W., and Bundy, C., 'State Intervention, and Rural Resistance in the Transkei, 1900-1965' in Klein, M., (ed) Peasants in Africa, Beverly Hills (1980), pp. 270-315; esp. pp. 289-93.

137. The Star, (6/10/1924) p. 7.

138. The Rustenburg Herald, (5/3/1937).

139. A.S. Grootboom in Mrs. K.E.M. Spooner et. al (eds.) p. 41. (It was only after Spooner's death that Grootboom married Wilhemena, Spooner's adopted daughter).

140. Hermannsburger Missionblatt (January 1891), p. 14.

141. ibid., pp. 14 - 5.

142. Beinart, W., The Political Economy of Pondoland 1860-1930, Cambridge (1982), pp. 217-9.

143. These figures are for both conventional and separatist churches. Amongst the Fokeng he quoted that only twenty families were still heathen by the 1950s, but suggested that this was probably slightly underestimating the number of non-Christians. Breutz, P.L., The Tribes, p. 71; for the BaPo under Chief Mogale, Breutz simply states that 'practically the entire tribe is Christian'. ibid., p. 191.

144. Beinart, W., The Political Economy of Pondoland, p. 238.

145. ibid., p. 234.

146. ibid., p. 237.

147. ibid., p. 239.

148. ibid., p. 220.

149. ibid., p. 217.

150. ibid., p. 240.

151. S.A.B.A., K/26, Penzhorn to NEC., pp. 992 - 3; Stegmann to NEC., p. 1042.

152. S.A.B.A., Penzhorn to NEC., p. 1020. This point was also asserted by Rev. Behrens at Bethanie. Hermannsburger Missionblatt (December 1908), pp. 373-4.

153. S.A.B.A., K/26, Stegmann to NEC., p. 1047.

154. S.A.B.A., K/26, Penzhorn to NEC., p. 988.

155. Breutz, P.L. The Tribes, pp. 45; 100; 118; 135-6; 156; 191.

156. S.A.B.A., K/26, Penzhorn to NEC., p. 1013.

157. S.A.B.A., K/26, Chiefs to NEC., p. 1134; NEC. Report, U.G., 22 (1932), p. 95.

158. S.A.B.A., K/26, Chiefs Shongoane, Mokgatle and Mamogale to N.E.C., p. 1108.

159. S.A.B.A., K/26, Chiefs Mokgatle and Selon (Maselwane) to NEC., pp. 1095-6.

160. S.A.B.A., K/26, Chief Motzatsi to NEC., p. 1151.

161. Breutz P.L., The Tribes, p. 45.

162. Rev. E. Siko (pastor in charge of two of two Pentacostal Holiness mission stations) Mrs. K.E.M. Spooner et. al. (eds.) in Sketches, p. 74.

163. Beinart, W., The Political Economy of Pondoland, p. 240.

CHAPTER 7 CONCLUSION

The political and ideological struggles within peasant communities in the Rustenburg district during the third and fourth decade of the twentieth century, display several apparently contradictory characteristics. Despite the common political challenge to chiefly control in each of the communities in the district, this resistance was expressive of varying material interests and was shaped by different ideological discourses. Not only was this the case in the district as a whole, but also within each of the chiefdoms.

In most of the disputes discussed, the evidence suggests a considerable degree of migrant involvement in the challenges to chiefly authority. This largely focussed on resentment of chiefly claims to tribute in the form of a part of migrant earnings, chiefs' roles in the administration of pass laws and various demands made by chiefs on the hard-won cash earned by migrants in wage lbaour. These expressions of opposition to 'tribal authority' were viewed by N.A.D. officials as indicative of a 'growing individualism' which threatened 'tribalism and traditional African communalism' and which were the direct result of extensive contact with 'white civilization' and the transportation of urban ideologies into rural African politics.

The perceptions of N.A.D. officials in the district were further stimulated by the widespread opposition to chiefs from 'progressive' land-holders who aspired to expand their productive bases and secure individual control over larger tracts of land. This source of opposition was particularly evident in the Fokeng chiefdom, where

chiefly control over the allocation of land was regarded by an aspirant farmer class as 'archaic' and 'un-progressive'. Furthermore, in virtually every chiefdom in the district, rural producers during the 1920s and 1930s were resisting 'traditionally defined' communal responsibilities and obligations. In some chiefdoms the majority of members were refusing to contribute to tribal levies for the purpose of purchasing land from which they did not see themselves as benefitting. Rural dwellers were refusing to perform labour services for their chiefs and many were deserting to the towns in order to avoid the imposition of tribal obligations in cash or kind. In most instances at least the leadership of these resistance movements were mission-educated Christians who often consciously identified their own 'civilized' aspirations or identity.

All of these forms of resistance to chiefly authority and to the chiefly or 'tribal' appropriation of individual wealth have been discussed in detail in the preceding chapters. Whether they emanated from wealthy peasants or from impoverished and marginalised migrants, these forms of resistance contributed to the sense amongst N.A.D. officialdom, that 'traditional forms of tribal government' were threatened with disintegration, and along with them, the mechanisms of white administrative control. However, in stark contrast to this perception, was the fact that resistance to chiefly authority was almost exclusively expressed through ideological discourses which were rooted in the exercise of traditional Tswana law and custom. In almost every dispute discussed thusfar, popular support in opposition to chiefs was mobilised through the establishment of rival <u>legotlas</u>, was expressed through the re-emergence of longstanding succession

disputes and was contested in both the form and functions of the tribal pitso.

The ideological vehicles through which the political and material control of Tswana chiefs were challenged, were largely common to all the disputes in the Rustenburg district, despite variations in both the material conditions of the different chiefdoms and the periodization of the struggles within them. However, there is little evidence to demonstrate any co-ordinated communication or organisation of resistance across the district and certainly no indication of any popular support for broader political organisations or movements.

The complex expressions of 'civilized' or 'detribalized' aspirations, interwoven with ideological appeals to 'traditional' law and custom, raise crucial questions about both the consciousness and the material concerns of peasant producers in the Rustenburg district during the period under review. These questions are even more significant in the light of the priorities and machinations of local and central state apparatuses during this period in which segregationalist ideology rose to dominance within the ruling classes. This formal segregationalist ideology gained momentum in the post-World War 1 period as the domination of capital as a whole was increasingly being threatened by the expansion of an urbanized and occasionally militant black working class, potentially in alliance with radicalized elements of the emergent black petty bourgeoisie. The entire system of labour controls established in the late nineteenth and early twentieth century, was effectively threatened by the massive influx

of Africans from the rural reserves to the urban areas, the growth of African worker organisation and the sporadic demands from representatives of the black petty bourgeoisie for more political rights.(1)

After the coming to power of the Pact government in 1924, one of the key state strategies in response to these developments was an attempt to revamp the whole system of African administration through a deliberate policy of 'retribalization'.(2) In terms of this policy the 'native' administration systems of the four pre-union colonies were to be centralized and made uniform. The proletarianization of Africans was to be halted and 'surplus' Africans in the urban centres were to be pushed back into the reserves where a system of control through 'traditional' African authorities was to be 'revived', with the emphasis on cultural and ethnic separation.(3) One of the mechanisms central to this process of 'retribalisation' was the institution of the chieftaincy, through which local government of rural Africans was to be administered under the watchful eye of the N.A.D.

In the Rustenburg district the chieftaincy was therefore both the central strategic point of political and administrative control for the white government, and was simultaneously the focal point of resistance within African rural communities. Despite the fact that the struggles in the chiefdoms of the Rustenburg district were localized and introverted, and despite the fact that any broader challenges to the state appear to have been more by accident than by design, these struggles necessarily threatened not only the prestige, but the very system of administration of the N.A.D.

Ultimately, the crisis of legitimacy of the chieftaincies in the Rustenburg district after the turn of the century was rooted in changing material conditions consequent on the development of capitalist relations of production in the wider society. The slow process of transition within rural productive relations demanded that 'customary' mechanisms of political and ideological control be creatively adapted if they were to maintain their ideological hegemony. However, the dominance of segregationalist ideology within the capitalist state and the imperatives of 'retribalisation' which defined the nature of state intervention in the area, served only to inhibit the resilience and flexibility of chiefly authority, leaving the tribal institutions of political control disfigured and increasingly out of phase with changing relations of production.

In an attempt of resolve these fundamental material and political contradictions, the state offered only administrative and ideological solutions, which exacerbated rather than resolved the conflicts within the chiefdoms of the Rustenburg district. In the final analysis, the power of chiefs in the district during the 1920s and 1930s rested on their administrative authority as local functionaries of the Native Affairs Department, rather than on their independent political or ideological dominance. In the Rustenburg district where, unlike Pondoland or the Transkeian Territories, the local 'Native' council system provided for in the Native Affairs Act Number 20 of 1920[4] simply did not take root until 1940,[5] there was consequently no development of a local salaried bureaucratic strata with vested interests in the administration of the district. As a

result, the chieftaincy was the only structured point of contact between the N.A.D. and the local population. This meant that once the chiefs of the district were entrenched in their positions of authority, they were virtually impossible to remove. In the final analysis, the incumbency of chiefs in the district had come to rely indirectly on the absolute authority of the Governor-General (or the Minister of Native Affairs) as Supreme Chief. In most chiefdoms in the Rustenburg district, the standing of chiefs by 1927 depended on the potential repressive power of the Supreme Chief rather than on any ideological legitimacy. Indeed, this status was signalled by the physical removal of opposition to chiefly authority in the form of the Fokeng rebels in late 1926, prior even to the passage of the Native Administration Act, and on the basis of the Supreme Court's interpretation of customary law.

The conclusions reached thusfar should not be misread as indicating a purely functionalist understanding of the role of chiefs in the Rustenburg district. Nor should they be taken to imply that the process of political and administrative control on the part of the N.A.D. was uncontradictory. Within their chiefdoms, chiefs continued to attempt to manipulate their 'customary' powers so as to maintain their political control and their priveleged access to material resources. The entrenchment of 'customary law' within the broader judicial system stimulated the challenges to rigid interpretations of traditional legal processes and it proved impossible to keep these disputes out of the 'white' courts, especially when white landowners were involved in the litigation as was the case in the Kwena ba Mogopa example. These legal disputes continued after the passage of

the 1927 Native Administration Act, and provided the vehicle for the challenge to chiefly authority. In so doing, they also highlighted the potential for ongoing dislocation in the operation of the N.A.D. as opposed to the Department of Justice, as well as within the N.A.D. itself. It was these very contradictions which allowed the space in which the struggles concerning the chieftaincy in the Rustenburg district took place.

However, there are two essential points which emerge from the evidence, which are central to any conclusions about the nature of political and ideological resistance in the district. Firstly, although local African populations in the district displayed a considerable degree of suspicion of state intervention into the social relations within the various chiefdoms, opposition to chiefly authority did not as a rule extend to a conscious challenge to the authority of white government. Where such challenges did manifest themselves, they were rather the unconscious consequence of the spill-over of essentially introverted local disputes. In fact, in the Rustenburg district where popular struggles were being waged through conflicting interpretations of 'customary' authority, state officials were often viewed as a potential source of support in the quest for legitimacy. Both 'rebels' and chiefs alike, constantly appealed to N.A.D. and Department of Justice officials for the 'just' settlement of disputes.

Secondly, it would be misleading to assume that the challenges to chiefly control were simply the expressions of 'detribalization' or the permeating influence of 'urbanisation' or 'civilization'. The

complex spectrum of reasons for entering the urban wage labour market should not be reduced to a simplistic consequence of rural impoverishment or the diminished stake of migrants in the rural economy. Similarly, the political and ideological consciousness of migrant workers who were actively involved in the conflicts in the district, cannot be properly understood if it is analysed only in terms of migrants' political and economic marginalisation in the peasant community. As often as not, migrants remained rooted within the political-economy of the rural chiefdoms and sought to secure their tenure within the peasant economy and polity. Where 'urban ideologies' permeated the politics of the African chiefdoms, this appears rather to have been the product of Christian education than the organised transportation of these westernized views from the industrial centres.

The format and content of the struggles in the chiefdoms of the district during the 1920s and 1930s demonstrates that the challenges to chiefly control had their ideological foundations in conflicting interpretations of 'customary' political and legal processes. It was on the basis of this essentially 'tribal' consciousness that popular support was won and lost in opposition to the chiefs, and it was through 'customary' mechanisms of 'tribal' organisation, such as the legotla, the pitso and the law itself, that popular alliances between different material interest groups were cemented in opposition to the demands and controls of the chieftaincy. The resurgence of succession disputes during the period under review suggests very strongly that in most chiefdoms of the Rustenburg district, the wave of opposition to particular chiefs was more the product of engineered

attempts to gain control of the chieftaincy than any attempts to destroy it.

The introverted and localized nature of political dispute processes in the Rustenburg district is also potentially open to misinterpretation as an indication of the triumph of segregationalist state strategies. Was not, after all, one of the key political motivations for segregation the attempt to relocate African political resistance and 'race consciousness' within the geographical areas of the reserves and the political domain of tribal institutions? Such an assumption, however, belies the essential relience and autonomous dynamic of ideology within rural peasant communities, as well as the capacity for such ideological formulations to provide the vehicle for the realization of differing material interests within communities in the process of transition. Rather than being the product of segregationlist strategies, the particular struggles within the chiefdoms of the Rustenburg district reflect the centrality and resilience of tribal identity within the consciousness of rural Tswana communities during the 1920s and 1930s, in the face of hostile and increasingly difficult material conditions.

The political and ideological struggles in the Rustenburg chiefdoms in the 1920s and 1930s were not simply shaped by the dominance of the capitalist state or the ruling classes. Nor were they a conscious challenge to them. These localized and introverted 'tribal' disputes can only be understood as an expression of complex and vibrant processes of concrete class formation and struggle wrought by the development of capitalist relations of production in the wider

society. Rather than merely being 'ordered by capitalism' these struggles had a momentum and dynamic of their own within which it is possible to discern the embryonic shapes of formal racial segregation, which for several decades to come were to characterise the particular form of capitalist development in South Africa.

FOOTNOTES

1. See Lacey, M., Working for Boroko - The Origins of a Coercive Labour System, Johannesburg : Ravan Press (1981), esp. pp. 67 ff; 84 ff; Lacey, M., 'The Origins of Coercive Labour System in South Africa', African Studies Institute Seminar Paper, University of the Witwatersrandd (March 1982); Bonner, P.L. 'The Transvaal Native Congress 1917 - 20 : the Radicalization of the Black Petty Bourgeoisie on the Rand', African Studies Institute Seminar Paper, University of the Witwatersrand (March 1980), later published in Marks, S., and Rathbone, R., (eds.) Industrialisation and Social change in South Africa, : Harlow (1982), pp. Bonner, P.L., 'The 1920 Black Mine Workers Strike : a Preliminary Account', in Bozzoli, B., (ed.) Labour, Townships and Protest, Johannesburg : Ravan Press (1978), pp. Legassick, M., 'The making of South African 'Native Policy', 1903 - 1923 : The Origins of Segregation', Institute of Commonwealth Studies Seminar, University of London (February 1972); Legassick, M., 'South Africa : Forced Labour, Industrialization and Racial Differentiation', in Harris, R., (ed.) The Political Economy of Africa, New York (1975), pp. 244-56; and Beinart, W., The Political Economy of Pondoland 1860 - 1930, Cambridge : Cambridge University Press (1982), p. 177.

2. See Lacey, M., Working for Boroko, p. 67; 84. For a more thorough discussion of this process of 'retribalisation' in the Rustenburg district itself see : Simpson, G.N., 'The Political and Legal Contradictions in the Preservation and Dissolution of the Precapitalist Mode of Production : The Fokeng Disturbances, 1921 - 6', B.A. (Hons.) Dissertation, University of the Witwatersrand (1981), pp. 28 - 61.

3. ibid.

4. Rogers, H., Native Administration in the Union of South Africa, (First edition, 2 Vols.), published under the auspices of the Journal of Bantu Studies, pretoria : Government of Bantu Studies, Pretoria : Government Printer (1933), pp. 9 - 11.

5. N.T.S., 6811, 6/318, Meeting of Rustenburg Chiefs (20 - 22/9/1940).

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N.T.S.,	315,	9/55,	Transvaal Jurisdiction of Chiefs and Headmen (Notes on Pilane)	(1910-1928).
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N.T.S.,	319,	16/55(I)	Application of Edward Mogale	(1936).
N.T.S.,	319,	16/55(II)	Administration of the Ba Po Tribe	(1915-1935).
N.T.S.,	320,	16/55,	Rustenburg : Ba Po Tribe : Chief Darius Mogale	(1936-1944).
N.T.S.,	323,	26/55,	Chieftainship of Bakwena ba Mogopa Tribe	(1911-1941).
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N.T.S.,	326,	37/55,	Affairs of the Bakwena Tribe of Chief Mamogale	(1940).
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N.T.S.,	7134,	619/323,	Natives on Kameelhoek	(1930).
N.T.S.,	7135,	624/323,	Natives on Vlakplaats 412	(1930-1937).
N.T.S.,	7135,	625/323,	Natives on Rampapanspoort 710	(1930-1936).
N.T.S.,	7135,	626/323,	Grazing and Cultivation rights, Schoongezicht 416	(1930-1936).
N.T.S.,	7135,	629/323,	Natives on Elandslaagte	(1930-1936).
N.T.S.,	7135,	633/323,	Grazing rights : Paris 208 Lease to Mtsabele Modebelle	(1930-1935).
N.T.S.,	7136,	665/323,	Natives on Palmietfontein 567	(1931-1939).
N.T.S.,	7138,	700/323,	Natives on Zwartkop 355	(1932-1947).
N.T.S.,	7138,	715/323,	Squatters complaint by S.J. Van Rensburg	(1932).
N.T.S.,	7138,	723/323,	Lease of water rights, Cyferfontein 625	(1932).
N.T.S.,	7139,	732/323,	Natives on Roodebloem 46	(1932-1933).
N.T.S.,	7139,	735/323,	Natives on Spitskop 168	(1932).
N.T.S.,	7139,	741/323,	Natives on Vaalfontein 579	(1933).
N.T.S.,	7140,	789/323,	Natives on Haakdoornfontein 169	(1916-1934).
N.T.S.,	7141,	815/323,	Natives on Vlakfontein, Vogelstruis-nek, Liliput	(1936-1940).
N.T.S.,	7145,	897/323,	Natives on Wildebeestheuwel, Rothschild	(1942).
N.T.S.,	7219,	96/326,	Cattle Sales, Rustenburg	(1933-1951).
N.T.S.,	7344,	146/327,	Rustenburg demonstration plot	(1931-1934).
N.T.S.,	7360,	222/327,	Rustenburg Native Show	(1935-1958).
N.T.S.,	7362,	235/327,	Rustenburg bull camp	(1933-1939).
N.T.S.,	7363,	235/327,	Rustenburg bull camp	(1931-1945).
N.T.S.,	7381,	293/327,	Native Cattle Husbandry policy	(1936-1950).
N.T.S.,	7430,	403/327,	Fodder Plots, Experimental and Nursery Plots	(1934-1950).
N.T.S.,	7441,	441/327,	Monthly agricultural reports	(1937-1941).
N.T.S.,	7506,	655/327(13),	Increased crop production. Supply of seed fertilizer and equipment to natives	(1942-1948).
N.T.S.,	7660,	19/332,	Disturbance at Motzatzistad	(1923).

	Vol. No.	File No.	Description	Date
N.T.S.,	7661,	123/332,	Native Unrest	(1917-1924).
N.T.S.,	7730,	242/333,	Removal of certain tribesmen from Mabieskraal	(1936).
N.T.S.,	7731,	242/333,	Removal of certain tribesmen from Mabieskraal	(1937-1944).
N.T.S.,	7851,	50/336,	Famine Relief : Rustenburg	(1932-1942).
N.T.S.,	7943,	185/337,	Rustenburg : Water Supply Native Areas	(1931-1933).
N.T.S.,	7944,	185/337,	Rustenburg : Water Supply Native Areas	(1933-1935).
N.T.S.,	7944,	185/337,	Rustenburg : Water Supply Native Areas	(1936-1940).
N.T.S.,	8114,	6/340,	Farm Elandsfontein 810	(1921-1922).
N.T.S.,	8116,	10/340,	Grazing and cultivation on Maricowater, Louisiana	(1922-1933).
N.T.S.,	8116,	21/340,	Grazing and cultivation on Klipplaat	(1922).
N.T.S.,	8117,	38/340,	Grazing and cultivation on Kafferskraal	(1923-1935).
N.T.S.,	8118,	44/340,	Grazing and cultivation on Olifantsdrift	(1921-1937).
N.T.S.,	8118,	54/340,	Grazing and cultivation on Rooipoort	(1924).
N.T.S.,	8118,	55/340,	Grazing and cultivation on Tussenkomst	(1924-1925).
N.T.S.,	8118,	64/340,	Grazing and cultivation on Hartebeesdoorns	(1924-1945).
N.T.S.,	8119,	73/340,	Grazing and cultivation on Jakkalskraal and Welgewaagd	(1925).
N.T.S.,	8119,	88/340,	Grazing and cultivation on Elandsdrift	(1926-1929).
N.T.S.,	8120,	94/340,	Grazing and cultivation on Koedoesrand	(1926-1944).
N.T.S.,	8120,	104/340,	Grazing Lease, Waterval	(1927-1934).
N.T.S.,	8120,	106/340,	Grazing and cultivation on Boschhoek	(1927).
N.T.S.,	8120,	111/340,	Grazing and cultivation on Vogelstruis-laagte	(1930-1934).
N.T.S.,	8121,	134/340,	Grazing and cultivation lease Leeukop	(1928-1934).
N.T.S.,	8121,	144/340,	Grazing on Albion	(1929).
N.T.S.,	8122,	155/340,	Grazing on Waagfontein	(1930).
N.T.S.,	8122,	161/340,	Grazing on Vrede	(1930).
N.T.S.,	8124,	195/340,	Grazing on Selonskraal (African and European Investment Co.)	(1932).
N.T.S.,	8127,	291/340,	Grazing on Brakkuil	(1934-1935).
N.T.S.,	8127,	293/340,	Grazing on Ledig	(1934).
N.T.S.,	8131,	349/340,	Grazing on Elandsfontein	(1937).
N.T.S.,	8488,	23/360,	Rustenburg local council	(1925-1941).
N.T.S.,	8539,	43/360,	Bakwena tribe local council	(1930).
N.T.S.,	8807,	89/362,	Representation of Natives Act 12/136(T)	(1936-1947).
N.T.S.,	8840,	97/362(25),	Native Trust and Land Act 1936 Application of Chapter four. Rustenburg	(1938-1939).
N.T.S.,	9513,	138/400(31),	Soil Erosion Rustenburg	(1935-1941).
N.T.S.,	9533,	138/400(74),	Soil Erosion Works	(1937-1938).
N.T.S.,	9535,	138/400(80),	Soil Erosion Reports	(1936-1939).
N.T.S.,	9551,	177/400,	Banking Account. Phokeng tribe	(1930).
N.T.S.,	10219,	10/423/1,	Rehabilitation Saulspoort Rustenburg	(1937-1940).
N.T.S.,	10219,	10/423/2,	Rehabilitation Ramakok's location	(1931-1937).
N.T.S.,	10219,	10/423/3,	Rehabilitation Pella location	(1937).
N.T.S.,	10219,	10/423/4,	Rehabilitation Mabi's location	(1937).
N.T.S.,	10219,	10/423/5,	Rehabilitation Kalefi Sedimedi's location	(1937).

	Vol. No.	File No.	Description	Date
N.T.S.,	10219,	10/423/6,	Rehabilitation Maimane's location	(1937).
N.T.S.,	10219,	10/423/7,	Rehabilitation Moeketsi's location	(1937).
N.T.S.,	10219,	10/423/8,	Rehabilitation Kgabosila's location	(1937-1941).
N.T.S.,	10219,	10/423/9,	Rehabilitation Mobabe's location	(1937).
N.T.S.,	10219,	10/423/10,	Rehabilitation Diederick Mogale's location	(1937).
N.T.S.,	10219,	10/423/11,	Rehabilitation Zibi's location	(1937).
N.T.S.,	10219,	10/423/12,	Rehabilitation Edward Mogale's location	(1937).
N.T.S.,	10219,	10/423/13,	Rehabilitation Ratsegae's location	(1937).
N.T.S.,	10219,	10/423/14,	Rehabilitation Mamogale's location	(1937).
N.T.S.,	10220,	10/423/15,	Rehabilitation Herman Selon's's location	(1937).
N.T.S.,	10220,	10/423/16,	Rehabilitation Mabelane's location	(1937).
N.T.S.,	10220,	10/423/17,	Rehabilitation August Mokgatle's location	(1937-1947).

SECRETARY OF NATIVE AFFAIRS FILES (S.N.A.)

[Central Archival Depot (S.A.B.A.), State Archives, Pretoria]

S.N.A.,	103,	661/1894/F191	Native Terrritory Appeal Courts	(1894-1920).
S.N.A.,	62,	424/06,	Purchasing of Rooikoppies	(1906).
S.N.A.,	68,	2322/06,	Application to purchase Wildebeesfontein	(1906-7).
S.N.A.,	83,	884/08,	Paulus Khunou versus August Mokgatle; Modisakeng Tetlele versus August Mokgatle : Ownership of Turffontein and Klipfontein	(1908).
S.N.A.,	86,	3086/08,	Petition Re-Squatters Law	(1908).
S.N.A.,	103,	156/11,	Purchase of Uitvalgrond 334 from W.N.C. Grobler by Reuben Mokgatle and Titus Mathube	(1911).
S.N.A.,	188,	135/1911/F473,	Native Law Regulations Act No. 15 of 1911	(1911).
S.N.A.,	165,	1990/1911/F367,	Transvaal Headmen : Allowances to	(1911-21).

DEPARTMENT OF JUSTICE FILES (JUS)

[Central Archival Depot (S.A.B.A.), State Archives, Pretoria]

	Vol. No.	File No.	Description	Date
JUS.,	116,	3/610/11,	Native Unrest	(1920).
JUS.,	116,	3/647/11,	Jurisdiction of Chiefs in the Transvaal; Fines imposed by Kaffir Chiefs in criminal cases	(1911-1922).
JUS.,	371,	3/1005/23,	Native Disturbances, Rustenburg	(1923-1925).
JUS.,	399,	3/546/25,	Pitso of Native Chiefs	(1925).
JUS.,	443,	3/304/28,	Indegency and Malaria, Rustenburg district	(1927-1934).

GOVERNOR-GENRAL FILES (G.G.)

[Central Archival Depot (S.A.B.A.), State Archives, Pretoria]

	Vol. No.	File No.	Description	Date
G.G.,	278,	7/3315,	Bill to provide for the better Administration of Justice in Respect of Appeals from the Courts of Native chiefs in the Transvaal and British Bechuanaland (March 1924)	(1924).
G.G.,	279,	7/3329,	Native Chiefs' Jurisdiction (Transvaal and British Bechuanaland Act)	(1924).
G.G.,	1184,	50/1313,	Natives : Miscellaneous. Memorandum presented by Council of Chiefs of the ANC (Published pamphlet)	(1928).

DEPARTMENT OF AGRICULTURE FILES (L.D.B.)

[Central Archival Depot (S.A.B.A.), State Archives, Pretoria]

	Vol. No.	File No.	Description	Date
L.D.B.,	943	R1074/5/4,	Crop Reports, Rustenburg	(1917-1925).
L.D.B.,	943A	R1074/5/4,	Crop Reports, Rustenburg	(1925-1935).
L.D.B.,	1966	R3365/16,	Economic Survey of Land Settlements	(1927).
L.D.B.,	2082	R3701,	Investigation into Farming Conditions	(1930-1937).

COMMISSION EVIDENCE AND COMMISSION REPORTS

S.A.B.A., K/26, Evidence to the Native Economic Commission of 1930-32, State Archives, Pretoria.

U.G., 22 (1932), Report of the Native Economic Commission of 1930-32, Government Publication, William Cullen Library, University of the Witwatersrand.

S.A.B.A., K/356, Native Farm Labour Commission (Evidence and Reports), 1937-8, State Archives, Pretoria.

HERMANNSBURGER MISSIONBLATT

[International Monthly published by the Hermannsburg Lutheran Mission Society, UNISA Archives, Pretoria]

The following extracts were kindly translated from the German for me by Stefanie Sycholt. I include all the sectionstranslated for the purpose of this thesis.

February 1867, pp. 23-28.
December 1867, pp. 247-255.
October 1868, pp. 190-197.

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January 1891, pp. 14-16.
October 1893, pp. 166-169.
March 1894, pp. 34-38.
April 1894, pp. 57-61.
January 1897, pp. 9-12.
January 1899, pp. 17-20.
Report for 1904, pp. 22-25.
September 1905, p. 268.
December 1908, pp. 373-377.
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Report for 1909, pp. 8-19.
January 1910, pp. 17-18.
July 1910, pp. 195-203.
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October 1911, pp. 312-315.
November 1911, pp. 210-214.
November 1912, pp. 342-343.
July 1913, pp. 223-228.
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Report for 1914, pp. 11-16.
February 1920, pp. 41-43.
March/April 1924, pp. 23-25.
July 1926, pp. 116-130.
April 1928, pp. 81-82.
September 1928, pp. 181-186.
February 1932, p. 26.
May 1933, pp. 67-68.
July/August 1940, pp. 75-79.

INTERVIEWS

[All the interviews listed here were conducted by M.B. Nkotsoe on behalf of the African Studies Institute, University of the Witwatersrand. I owe thanks to the Institute which made transcripts of the interviews available to me, and to Belinda Bozzoli who drew my attention to them.]

Interview with Ernestina Mekgwe, Phokeng (undated).
Interview with Mmamatlakala Moje, Phokeng (1/10/1982).
Interview with Setswammung Mokgatle, Phokeng (17/3/1983).
Interview with Evelyn Rakola, Phokeng (undated).
Interview with Nkwapa Ramorwesi, Phokeng (undated).
Interview with Naomi Setshedi, Phokeng (24/11/1981).
Interview with Naomi Setshedi, Phokeng (17/6/1983).

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