

# Unease reigns as culture and the constitution collide in South Africa

By [Thandabantu Nhlapo](#)

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King Zwelonke Sigcawu, the new king of amaXhosa, the second largest traditional grouping in South Africa, [ascends to the throne](#) at a time of heightened tension between culture and constitutional democracy in South Africa.



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The debate is not new and usually emerges in two distinct clusters of emphasis. The first cluster encompasses all those skirmishes which underlie the belief by many South Africans that the country is too westernised and that the space for cultural expression is rapidly diminishing.

Recent reports of spats over [breastfeeding in public](#) belong firmly in this category, as do tensions over institutional culture at the workplace. For example, should an employee who wants to heed a call by the ancestors to practice as a healer, or sangoma (diviner), be given time off to do so, in the same way as her colleagues are allowed to go on career development training fellowships?

## The role claimed by traditional leaders

The second cluster shows itself in more overtly political hostilities. These include the charge that African [cultural institutions](#), whether they be traditional leadership or [virginity testing](#), are under siege in the current social and political dispensation, from a [Constitution](#) hell-bent on obliterating all traces of African identity.

The constitution [recognises](#) the institution of traditional leadership in accordance with customary law.

Recent comments by Goodwill Zwelithini, King of the Zulus, the largest traditional grouping in South Africa, dropped him, feet-first, into this version of the debate. His call on nationals from other African countries to pack up and [go home](#) was seized on to unleash a wave of attacks against African foreigners in parts of two of the country's provinces, KwaZulu-Natal

and Gauteng.

Claims by his spokespeople that he was misquoted are unconvincing. For anybody who understands isiZulu, the king clearly identified a particular group of people and labelled them as unwelcome. This has dented South Africa's [image on the continent](#) and fuelled anti-traditionalist sentiment at home.

The King also set the cat among the pigeons two weeks ago when he mounted a scathing attack on the Recognition of Customary Marriages [Act](#). He rejected some of its provisions relating to polygamy, especially the requirement of consent from the first wife before a man can marry another. He claimed that traditional leaders were never consulted during the development of the [legislation](#).

The King's advisers appear to have missed the fact that the consent requirement is not found in the [Act](#) but rather developed from a constitutional court [decision](#).

These two outbursts are significant. The King's comments about foreigners raise the question of limitations on traditional governance and its role in a [constitutional democracy](#).

It strengthens the hand of critics of hereditary leadership who argue that a parallel system of rule by unelected incumbents is incompatible with democracy, especially where such rule is not subject to orthodox forms of political accountability.

Obliquely, it also raises the spectre of tribalism, at least in the sense that the dynamics of parallel governance imply an ability to mobilise along ethnic lines in ways that may be inimical to the national good.

The King's comments about the marriages act is more directly about culture and the role claimed by traditional leaders as its gatekeepers.

## **Cross-cultural debate**

The clash of cultures issue requires more far-reaching debate to help develop a level of public understanding of at least three underlying difficulties in promoting cross-cultural dialogue in South Africa. These considerations can be set out as follows:

Firstly, the cultural debate in South Africa is not being conducted between equals. There is a pervasive privileging of western culture in the majority of engagements in public and scholarly discourses.

A contributing factor in this [polarisation](#) is the habit of uncritical recourse to the [Constitution](#) by many supporters of modernity.

In these instances the country's founding document is used to silence any assertion of identity which causes discomfort to western sensibilities. This insensitivity is the greatest obstacle to the cultural accommodation required to embed genuine

cultural diversity in South Africa.

Secondly, as a result there is growing scepticism on the part of many supporters of African culture that the [Constitution](#) can ever be a fair referee in the contest between the cultures.

The recent skirmishes about culture in the public space represent the tip of an iceberg that can be properly characterised as a cultural backlash.

King Zwelithini's rant against the customary marriages [statute](#) and his assertion that the time has come for African culture to draw the line should be seen as part of this backlash. It illustrates a noticeable hardening of attitudes and a discarding of whatever restraints might have existed in the past to keep the cultural debate muted and cordial.

Thirdly, while one can imagine the approval of this development by many South Africans who are fed up with what they perceive as enforced westernisation, traditional leaders stepping into the breach to reclaim their mandate as champions of culture could turn out to be a double-edged sword.

Doubts persist about the [commitment](#) of traditional leadership to human rights, especially the [rights of women](#). Civil society organisations which thought they had won a famous victory last year by halting the [Traditional Courts Bill](#) in its tracks are carefully watching developments. The Minister of Justice and Constitutional Affairs recently announced that he intends to re-introduce an amended version of the [Bill](#).

## Culture and the problem with gatekeepers

It should be possible for people to make the distinction between traditional leaders, on the one hand, and culture, on the other.

While traditional leaders are usually cast in the role of spokesmen for culture, culture in fact grows and develops in communities quite independently of any chiefly supervision.

In the end, different versions of culture are served up to the public. One is an ossified version intended to claim back diminishing powers, the other a more organic and adaptable phenomenon, taking its shape from the struggles of ordinary flesh-and-blood people living their lives.

It would be regrettable if the debate became so polarised as to lose sight of this complexity.

## ABOUT THE AUTHOR

[[<https://theconversation.com/profiles/thandabantu-nhlapo-169961> Thandabantu Nhlapo]] is Emeritus Professor of Private Law at [[<http://theconversation.com/institutions/university-of-cape-town> University of Cape Town]].

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