The African National Congress and Traditional Leadership in a Democratic South Africa: Resurgence or Revival in the Era of Democratisation?¹

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ABSTRACT The role of traditional authorities, particularly traditional leadership in the democratic South Africa (1994-2013) seems to be a complex and multifaceted process. When the African National Congress (ANC) came into power in May 1994, the party was faced with a mammoth task of incorporating traditional leaders in the local sphere of government. The study examines the socio-political role of traditional leaders in South Africa in post-apartheid period. Furthermore, the study aims at examining the factors and challenges contributing to the leadership discourse between the traditional leaders versus the democratic way of leadership from the ANC structures. The above propelled the researchers to engage in an analytical research study of determining the relationship that existed between the traditional leaders and the local government structures in South Africa. On the basis of the findings of this study, recommendations are made for the fostering of harmonious working relationships between the traditional and the local government structures in South Africa.

INTRODUCTION

The ANC's democratic government inherited a more divided and unequal socially stratified society based on ethnic and race issues. It was clear from the ANC when it assumed power that there was a need to embrace the traditional authorities in the democratic local sphere of government. The fact that in most cases traditional authorities, in particular traditional leaders where viewed as institutions which in the past supported the colonial as well as apartheid governments, created more problems for the ANC when they were to be embraced as part and parcel of the ruling party. The researchers in this paper locate the discussion within the broader framework of transformation in South Africa and how traditional leaders compare with the democratically elected government representatives. In addition, the conceptualisation of the traditional leadership institutions in the transformation agenda of the ANC will be analysed. In relation to this, the research presents some perceptions held by the democrats within the ANC regarding their views on the autonomy of traditional leaders. Furthermore, the study determines as to whether the South Africans are still inclined to support the traditional leaders, rather than the politicians.

The discussion in the study clearly indicates that in one way or the other, traditional authorities in South Africa had managed to revive themselves to a significant role player in the governance of the country. Perhaps this became evident with the establishment of the National House of Traditional Leaders subject to relevant national and provincial legislation and the recognition of the traditional authorities as an institution by the Constitution of the Republic of South Africa with Section 212(1) stipulating the following: 'national legislation my provide for a role for traditional leadership as an institution at local level on matters affecting local communities'. The function of this House is to advise government on matters affecting traditional leadership, traditional communities and customary law. Beyond their constitutionally assigned role as custodians of customs and traditions, the ambiguity of the actual role of traditional leaders has prompted hesitant and sometimes contradictory responses by the ANC as a political party and as an agent of state power (Khan et al. 2006: 86).

Van Kessel and Oomen (1997: 561) argue that during the apartheid era, chiefs were maligned as puppets of Bantustan rule. In ANC-related circles, it was widely assumed that chieftaincy would not survive in the post apartheid era. However, this study proves that traditional leaders are re-asserting themselves in the new South Africa. In line with the above arguments, it is clear that initial debates which proposed the option of abolishment of traditional authorities should be regarded as wishful thinking.

Pieces of legislation have been enacted by the post-apartheid ANC's government in order to regulate the powers of the traditional leaders in South Africa. These included, more significantly, the National House of Traditional Leaders (1997), the Municipal Structures Act (1998), the White Paper on Traditional Leadership and Governance (2003) and the Communal Land Rights Act (2004), as well as a number of provincial statutes. The National House of Traditional Leaders Act, on the other hand, provides for the formation of the National House of Traditional Leaders, whose function is to promote the role of traditional leadership within a democratic constitutional dispensation. The Traditional Leadership and Governance Framework Act of 2003 is one of the most pertinent pieces of legislation aimed at outlining the roles and functions of the institution of traditional leadership within the broader thrust of the post-1994 democratic dispensation in South Africa (Sithole and Mbele 2008: 19). Therefore, it is along this line of argument that traditional authorities within the ANC's government are scrutinised.

Theoretical Frameworks of Traditional Authorities

This study is underpinned by a democratic theory of traditional leadership. Long before the ANC could take power in South Africa, the question of traditional leadership became critical and was a contested terrain. This was due to the different schools of thought in as far as traditional leadership was concerned. In elucidating the above, Logan (2008: 1) has considered the debate on traditional leadership as being based on the so-called 'traditionalists' and 'modernists'. This debate had been waged for decades in Africa, but intensified in the last two decades as efforts of democratisation and decentralisation brought competing claims to power and legitimacy to the fore, especially at local level. According to Logan (2008: 1), 'modernists argue that the institutional forms of liberal democracy are universally valid, and that Africans aspire to democratic systems of rule that look much the

same as those in the West. They view traditional political systems as relics of the past that may actually impede democratic development, and which must therefore be overcome'.

BUTI KOMPI AND CHITJA TWALA

On the other hand, traditionalists argued that traditional institutions proved both malleable and adaptable, and that even if they could change, they still draw on their historical roots in unique and valuable ways. They see 'tradition' as a resource to strengthen the community and polity; and to overcome the many failures of the Western liberal democratic model as it has been applied on the African continent (Logan, 2008: 1). For example, in the late 1990s in the province of KwaZulu-Natal, there existed political tensions between the traditional leaders and the ANC politicians. In the main, traditional leaders were viewed as conservative and reactionary to the democratic principles as projected by the ANC. These differences exploded into a new cycle of violence and resembled the 1980s (Khan et al. 2006: 84-85). In most cases, the politicians belonging to the ANC accused the traditional leaders of stalling the progress of providing services to the rural communities in the province. Many of the traditional leaders were accused of aligning themselves with Inkatha Freedom Party (IFP) which was in conflict with the ANC for political dominance of the area. Although there were some traditional leaders who sided with the ANC, however, the majority were aligned with the IFP. It should be noted that, the ANC was not against traditional leaders in the area, but the politicisation of the institution of traditional leadership posed serious challenges for the ANC.

Ekeh (1975: 93) contends that: 'Modern African politics are in large measure a product of the colonial experience. Pre-colonial political structures were important in determining the response of various traditional political structures to colonial interference'. Besides all the above differences, interestingly, both traditionalists and modernists often agree on that they portray traditional authority and elected political leaders as competitors. Despite these two theories, however, there is a connection in practical terms rather than a conflict at operational level.

Logan (2008: 2) argues that rather than finding themselves trapped between two competing spheres of political authority, Africans appeared to have adapted to the hybridisation of their political institutions more seamlessly than many have anticipated. Noticing the existence of dual political authority, Sklar (1999b: 115-121) coined the concept of 'mixed government' and 'mixed polity' to both describe this condition of African politics and to suggest that the acknowledgment of traditional authorities, whether constitutional or extra-constitutional, could provide African states with a dose of stability at a time of rapid change and institutional weakness. Others argued that the incorporation of traditional structures in contemporary systems could improve the governance of African states by building upon the legitimacy of pre-colonial institutions (Englebert 2002: 346).

Review of Related Literature

The ANC has always been driven by the need for quality leadership. After becoming government of South Africa, in May 1994 the ANC was not only confronted with the question of working together with traditional leaders, but also to incorporate in its leadership fold the governments of the former Bantustans. It should be noted that over the past two decades, researchers in the humanities and social sciences showed a growing interest in exploring the leadership relationship between the traditional leaders and the ANC. African political elites of various persuasions, along with academics, activists, and chiefs themselves, debated the proper position of traditional authorities in society at length. Research reports, academic articles, books and chapters in books were produced on the question of traditional authorities in the pre and postapartheid South Africa. Oomen (2005) succinctly wrote that traditional authorities remain integral part of people's existence in rural areas. It became evident from this argument by Oomen that even in a democratic state such as South Africa, the role to be played by traditional leaders remains important.

In recent years, the renewed salience of traditional leadership in South Africa generated a fair amount of enthusiasm among scholars of cultural and political history. Some scholars see current traditional leaders as a remnant of the apartheid system and an instrument of indirect rule, and therefore as fundamentally incompatible with a modern democratic system. Others maintain that traditional leaders are in a unique position to play an important role in the management of land, in the administration of justice, and the stewardship of culture. In some cases these powers of the traditional leaders were regarded by the ANC politicians as barbaric and undemocratic. Therefore, that created a major rift between these two institutions of leadership.

Some scholars highlighted two schools of thought pertaining to perspectives about traditional leadership. They suggest democratic pragmatism and the school of organic democracy. The democratic pragmatists define democracy and human rights from a liberal tradition that prioritises the rights of the individual human being to choice and freedom. They argue that traditional leadership as a system that allows for inheritance of leadership is incompatible with democracy. The proponents of the democratic pragmatism school of thought believe that traditional leadership should not be sustained in a political democracy, as it contradicts the core values of freedom and choice (Sithole and Mbele 2008: 5). Baldwin (2011: 1) argues that 'traditional leaders are local authorities who have status by virtue of their association with the customs of the communities'.

In the study commissioned by the Office of the Presidency in 2008, both Sithole and Mbele appeared to be in favour of organic democracy. They don't see traditional leadership as an 'anomaly', a 'compromise of democracy' or a 'contradiction' that exists within a more legitimate setting of modern more generically applicable governance. They see traditional leadership as a system of governance that fulfils different needs towards people who understand more than one type of democracy (Sithole and Mbele 2008: 10).

RESEARCH METHODOLOGY

It should be noted that the success of South Africa's transition to democracy amongst others depended on the manner the ANC's government handles the institution of traditional leadership in a post-apartheid country. In the main, this included introducing some legislations and measures of incorporating traditional leadership in the spheres of governments in South Africa. In this section the methodology used in the study is highlighted and unpacked for the smooth organisation of the process. The researchers used a qualitative method with special reference to a narrative sequence of events as it fits perfectly this kind of study. The purpose of using the qualitative research method is to describe internal processes within the ANC and to explore how it attempted to handle the question of traditional leadership when it took over power.

984

The data for this study consist of three kinds, namely, primary, secondary and tertiary data. Primary data include conducting oral interviews and consulting newspaper clippings for a cross-sectional analysis of information. Primary data was collected from traditional leaders as well as elected leaders within the ANC by means of structured interviews. Secondary data include books, academic journals and this form the basis for the theoretical study and quality analysis. Secondary data were supplemented by tertiary data from the literature and references in academic journals, as well as from available unpublished reports.

OBSERVATIONS AND DISCUSSION

An Historical Background to the Institutions of Traditional Leadership in South Africa

Traditional leadership has been the basis of local government in most of Africa throughout history. In pre-colonial Africa, African societies were by kings supported by a hierarchy of chiefs and councillors or advisors, who were either close relatives or selected from their communities. These traditional leaders served as political, military, spiritual and cultural leaders and were regarded as custodians of the values of society (Shapera 1955: 68). In the later years, the Black Authorities Act established a system of hierarchical local government in rural areas, based on traditional organisation but with statutory powers and functions. They promoted the interests of the communities; maintained law and order in the communities; reporting conditions of unrest or dissatisfaction to the government.

South Africa's unique and historically inspired institutional, legislative, and constitutional reforms recognise the equal rights of all citizens and seek to embrace the pluralistic nature of the country. However, in an effort to acknowledge this diversity, South Africa's constituent institutions also recognise and incorporate traditional forms of leadership, including hereditary positions such as chiefs and headman. Traditional leadership has been explained differently by various authors. It should be noted that the continued existence of the institution of traditional leadership was, during the heated constitutional negotiations between the National Party (NP), the ANC and other parties, one of the compromises made to encourage the likes of the IFP and some sectors of the ANC to continue participating in the talks (Sunday Times, 7 October 2012: 4). Therefore, to question the continued existence of these traditional institutions in the post 1994 period could reignite violence in the country. It was incumbent upon the ANC as the ruling party to handle the matter with sensitivity.

It is interesting to note that when the ANC was formed in 1912, among the delegates who attended the founding meeting were traditional leaders. Therefore, the relationship between the ANC and traditional leaders is something that started long time ago. Upon the formation of the ANC in 1912, an Upper House was created to accommodate traditional leaders who joined the organisation (Van Kessel and Oomen 1997: 562). Odendaal (1984: 270) wrote the following about the involvement of traditional leaders in the formation of the ANC: 'A large number of chiefs or their representatives and the leaders of local and regional political organisations converged on Bloemfontein on 8 January 1912 to attend the national conference convened by Seme to discuss the formation of a new national organisation of the African people. Upwards of sixty delegates participated in the four-day conference. The occasion was a landmark in the history of African politics in South Africa'.

The above was further endorsed by Sithole and Ndlovu (2013: 1342) when they indicated that 'from its inception the ANC accepted the important role that African monarchies played in holding together the fabric of African societies; the organisation later used the role they played in waging wars of resistance against colonialism to conscientise ANC members and supporters'.

The post-apartheid Constitution of South Africa created a three-sphere system of government in which local government is ranked as an equal sphere with the national and provincial governments. The idea of an autonomous local government with full administrative and financial management capacities infused some of the founding texts of the ANC's ideas of a modern democracy, for example the Freedom Charter and the Reconstruction and Development Programme (RDP). A logical outcome of this policy framework was the high-priority political objective of community empowerment through local government jurisdictional entities for the redistribution of resources and economic development to eradicate past inequalities (Khan 2006: 90). It was in this context that the institution of traditional leadership had to be embraced.

The Role of Traditional Authorities in a Democratic Dispensation

Traditional leaders continuing importance is demonstrated in the social and political life of their communities. They are valued because they provide a sense of continuity and stability in an era of great change. In most cases they serve as intermediaries to ensure that change occurs in an orderly and familiar way (Williams 2004: 121). Khan et al. (2006: 84) stated the following about the attempts by the traditional authorities to be recognised in a post-apartheid South Africa: 'Traditional authorities, particularly in KwaZulu-Natal, have over the last decade been most vociferous in trying to carve out a role for themselves in local government, unencumbered as far as possible by the requirements of a constitutional democracy. The forceful way in which traditional leaders and their national organisations such as Congress of Traditional Leaders of South Africa (CONTRALESA) and political parties such as the IFP have argued their case, suggests that not only are they hoping to be left with the powers inherited from colonialism and apartheid but that traditional leaders want these powers to be enhanced and entrenched as a legitimate authority within the communities they rule over'.

Sithole (2005: 120) provided another dimension on the importance of traditional leadership in South Africa. She contends that the proponents of organic democracy do not argue against the need to democratize traditional leadership, but they contest the basic assumption that traditional leadership is fundamentally undemocratic in the first instance. In this paper the researchers tend to agree with Sithole. Traditional leadership should not be viewed in conflict with the elected politicians under the ANC's government, but be seen as complimenting it. In theory such an assumption seems making sense, but in reality that was problematic as both institutions continued to contest each other at any given moment. Despite these challenges, it is clear that for some years to come, institutions of traditional leadership will still continue to exist in South Africa. Interestingly, other experts on the topic view the powers given to the traditional leaders as a hangover, rather than a political choice. It was argued that in order for traditional leaders to be functional in a democratic society, they

should rather pose some political powers (Herbst 2000; Skinner 1968).

It is now over 20 years since the first democratic elections were held in South Africa in April 1994. The new democratic dispensation brought about change in the institution of traditional leadership, which included its transformation to be in line with democratic principles as well as the Constitution of the Republic of South Africa, 1996. At the centre process was a need to transform some aspects of governance in the institution of traditional leadership. This transformation process created a number of challenges, one of which was resistance from the institution of traditional leadership itself (George 2010: 9). In debating the future of traditional leadership, for instance, the necessity of a neutral, non-tribal, non-political stance of the chiefs was emphasised (Oomen 1999: 83).

On 11 April 1997 the Council of Traditional Leaders Act 10 of 1997 came into effect, creating a symbolic and advisory role for the Council. In terms of this legislation the Council could no longer delay the passing of bills even be referred to it. Provincial houses established continued to exist but subject to the goodwill of provincial government for their continued powers and existence (Nicholson 2006: 8). During the course of the first decade of democracy, the ANC's government pursued a process of democratisation in which efforts were made to deconstruct traditional authorities as the locus of power in rural areas by embarking on local government reforms as well as the restructuring of land administration.

Rugege (2000: 1) stated that the role of traditional leaders in governance, fuelled by the passing of legislation providing for a restructured local government system, the demarcation of municipalities and the 2000 municipal elections that ushered in the new local government system, created more controversy on their roles in a democratic South Africa. The controversy arose because the new municipalities cover the whole country. In most cases, the traditional leaders feared that once the municipal governments became fully operational, that will be the end of their influence.

Despite the above challenges, traditional authorities continued to execute the functions under the ANC's government. Underneath are some of the roles played by traditional leaders in their respective communities to enhance democracy as propagated by the ANC. On 11 April 2000, the Department of Provincial and Local Government launched a discussion document on traditional leadership to give South Africans a chance to comment on the role of traditional leadership in government. The discussion document, which was the culmination of a long research process, did not make any policy choices. It stated the issues and the challenges they posed, and raised few strategic questions. The document's release was followed by three months of consultation with stakeholders, including traditional leadership structures, structures of organised local government, NGOs, gender organisations, statutory bodies and others. The discussion document sought to achieve a number of objectives, including: determining the role of traditional leaders as possible actors in service delivery and development; enhancing the role of traditional leadership in dispute resolution; transforming the institution in line with the Constitution and the Bill of Rights; promoting accountability and strengthening democratic governance; and enhancing the ceremonial role of traditional leaders and promoting them as ambassadors of their communities (Daily News, 18 August 2000: 2).

As early as June 2000, in attempts to save their positions, traditional leaders confronted the ANC and rejected the calls for women and the youth to have an increased role in traditional leadership and institutions (City Press, 25 June 2000: 2). On 17-18 August 2000 the conference addressing the future of traditional leadership was hosted by the Department of Provincial and Local Government. This represented an important opportunity for public input. Unfortunately, rural community representatives who did not hold positions of traditional leadership comprised fewer than five percent of the participants. A further weakness of the conference stemmed from the decision of CONTRALESA, and the House of Traditional Leaders to withhold their participation from the conference (Daily News, 18 August 2000: 2). This tactic, combined with subsequent comments by traditional leaders who threatened the legitimacy of the forthcoming local government elections in the absence of a compromise, appeared to have worked and a decision that should have evolved from extensive public participation was arrived at by executive decree.

It was interesting to note that Members of Executive Council (MECs) for local government were expected to be advised to consider applying Section 81(4)(b) of the Municipal Structures Act in their respective provinces. This section empowers an MEC for local government in a province, after consulting the relevant House of Traditional Leaders, to prescribe a role for traditional leaders in the affairs of the municipality (Daily News, 18 August 2000: 2).

In most cases the ANC is faced with a challenge of resolving some disputes pertaining to traditional leaders and community members. For example in March 2013, a North West community had a fierce confrontation with Mmuthi Pilane and Ramoshibudu Dintwe. The community went to an extent of getting an interdict from the North West High Court which prohibited them from holding community meetings without its permission. The case came from a dispute between the community of Motlhabe Village and the Traditional Council of the Bakgatla-Ba-Kgafela, an organisation that rules over 32 villages in the North West. Pilane and Dintwe, representing the Motlhabe residents had expressed dissatisfaction with the Council's administration and leadership (The New Age, 1 March 2013).

Dealing with Customary Matters

Pertinent to the primary role of traditional leaders is to deal with customary matters. In a democratic South Africa, traditional leaders still play a significant role as they still make contacts with the community members in efforts to solve their conflicts or express certain viewpoints. In most communities where traditional leaders still have powers, people prefer to approach them with their social and family problems. These may include marital problems, disciplinary matters, and feuds in families. Their proximity and closeness to the people helps and earns them the status of being trusted. Unlike the politicians, the traditional leaders are seen as part of the unique social order.

Monyaki (2011) from the Barolong Boo-Seleka Traditional Authority stated the following about the role of traditional leaders:

Traditional leaders played a significant role in the past during the apartheid era and they are still relevant today. It is not the intention of traditional leaders to undermine the rule of democracy in South Africa. However, I see us as the link between our people in the communities with the ruling party. To date we are handling issues pertaining to customary matters such as dealing with family conflicts. This role in one way or the other is assisting our government to minimise family feuds.

Endorsing and perhaps justifying the above statement by Monyaki (2011) and Moloi (2012) of the Makholokoe alluded:

Traditional leadership role should not be understood and an attempt to overrule democratic processes by the ANC. In the past, our communities in the rural areas relied on the traditional leaders in problems solving matters. Therefore, the advent of democracy is not intended in overruling their roles. I think few individuals within the ruling party are trying the confuse people. The ANC recognises the importance of traditional leaders, hence the establishment of the House of Traditional Leaders.

Moderates and Facilitates Mutual Existence of Cultural Choices

Williams (2010: 12) contends that 'despite the recognition that the chieftaincy continues to wield authority at the local level, there is no consensus on why and how this occurs'. This is, why people have remained loyal to the chieftaincy when there now exists democratic alternatives. For example, in most cases traditional leaders are aware of the fact that their communities are made up of people from different cultural backgrounds. Therefore, it is important for them to nurture and allow respect for all cultures. For example, traditional African religions should be accorded the same status as Christianity in the communities. Although most of these leaders would prefer African regions, that should not be at the expense of others. Mabesela (2012) argues:

There were trials that were overseen by the Kings. Even to this day we have them even though they are done differently because of English Laws. There are trials still taken to the Kings. The role the Kings played was to make sure that people were living in peace, understanding, and building one another as community members. If ever there were quarrel, the King worked like a judge and also had a council that assisted him to trial people.

In June 2012, the *Mail and Guardian* (2012: 30) published an article by CZ Mann arguing that traditional leadership in South Africa is equated to male patronage. Mann argues:

Traditional leadership expresses a culture of patronage and patriarchy that is given spiritual authority by the ancestral spirits of hereditary clan leaders... Patronage and patriarchy mean that power belongs to the hereditary leader and his council of relatives and supporters. Such patronage enhances networks of belonging among men. The tradition of patronage also partially explains the ruling party's preference for the deployment of loyal supporters to posts in government rather than appointments based on merits.

Managing Land Tenure

Without doubt, management of land resources in South Africa has been a controversial topic. On the one hand, many economists have called for massive and immediate privatisation of ownership in order to rationalise investment in agriculture. Others argue that traditional tenure systems, usually managed by local chiefs, may be better aligned with African cultural and social norms, and more protective of the most vulnerable in rural communities (Logan, 2008: 11). In South Africa, for example, traditional leaders also continue to play a critical function in controlling access to land. This is obviously a central concern to the majority of South Africans who still rely directly on their land for survival, as well as many urban people who continue to maintain roots in rural communities. Khan and Lootvoet (2001: 3) stated that 'during the apartheid era the traditional authorities' power was significantly reduced, their only real form of power came in the form of their ability to allocate and distribute land. In accordance with the apartheid government's influx controls which governed the areas in which African population could reside, Africans could only settle and claim land within the areas designated as rural homelands. Tribal leaders, however, had the final say in terms of not only who owned land, but also who lived on the land as the apartheid government afforded tribal leaders the authority to dismiss people from these areas'.

In South Africa, over 14 million people reside in rural areas and are still subject to the command of traditional leadership. These rural inhabitants are loyal to the institution, and they believe that traditional leadership is vital in ensuring the development of their areas. This dates back to the period prior to 1994 when traditional leadership was at the centre of the development of rural communities (George, 2010: 9). Traditional leaders are local authorities who have status by

virtue of their association with the customs of their communities. In most cases, their positions are typically hereditary, with leaders selected from within royal families according to local custom.

According to Ensminger (1997: 165-196) traditional leaders continued importance is exhibited in the management of land tenure, often even in systems that have supposedly privatised ownership rights. Both traditional leaders and politicians attached great value on it for service delivery purposes. Land in South Africa is a politically charged and profoundly contested issue, and the control of rural land by unelected officials such as the traditional leaders complicates the issues.

CONCLUSION

As it is noted in the text above, the principal aim of this study is on exploratory research into the role of traditional leaders and how it is perceived in a post-apartheid South Africa. The fact that traditional leadership affairs in the provinces are overseen by the democratically instituted government departments such as Cooperative Governance and Traditional Affairs (COGTA) proves the importance of the institution in a democratically elected government of South Africa. However, a wide diversity of the traditional leaders needs from the ANC's government pose a threat in the creation of fundamentally different expectations and treatments. Currently, there are concerns that some traditional leaders are treated differently from others. There is an outcry that traditional leaders in the KZN Province are better treated than those in the parts of the country in terms of the social status accorded to them and the allowances accompanied by that. The rejection of the Traditional Courts Bill by some of the ANC's alliance partners provided the ruling party with some leadership challenges. The Bill was not only viewed as patriarchal, but as clearly in conflict with the country's constitutional values because according to it women are not guaranteed participation in traditional courts, but may be represented by male counterparts. Therefore, in rural societies where women are particularly vulnerable, this could deepen their social and economic exclusion. The ANC's successful partnership with traditional leaders must function symbiotically, and maintaining this kind of relationship requires an understanding of multiple realities, because conflicting perceptions can lead to a breakdown of relations.

NOTE

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988

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