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SUBMISSION BY THE KWAZULU GOVERNMENT TO THE TECHNICAL  
COMMITTEE ON CONSTITUTIONAL ISSUES

1. This submission is designed to indicate those aspects of the role of indigenous or traditional rulers which should properly be included in the next constitution of the Republic of South Africa.
2. We believe that there should be a general and fairly comprehensive clause in the constitution which provides for ascertainment, recognition and protection of African customary law and usages; the jurisdiction of customary courts; and communal land rights and usages according to African customary law, subject to the principles and provisions of the constitution.
3. The constitution should also make provision for the establishment of a College of Rulers/Chiefs. The College of Rulers/Chiefs should in general consist of hereditary rulers and chiefs drawn from all parts of the Republic of South Africa. The main task of the College of Chiefs will be to consider and advise on all legislation which affects the areas of jurisdiction of traditional rulers and chiefs in development; the modernisation of customary law and usages with particular reference to facilitating the enhancement of the equality of men and women in rural society. The detailed constitution and composition of the College of Traditional Rulers and Chiefs; the summoning by the State President; the venue and frequency of sessions of the College should be contained in a schedule of the constitution or in a separate legislative enactment.
4. Recognising that the position of traditional indigenous rulers is not uniform throughout the country, provision should be made for asymmetry with respect to the different states/regions. Thus we would envisage an agreement between the state of KwaZulu/Natal and His Majesty the King of the Zulus with respect to the kingdom of KwaZulu. An example of such agreement is the Buganda Agreement of 1961 between the government of Uganda and the Kingdom of Buganda. Other states would naturally regulate the relations with traditional and hereditary rulers in their own way.
5. We should emphasise that only essential enabling general principles and provisions should be contained in the new constitution. The details would feature either as schedules to the constitution in appropriate cases or could be the subject of legislation.

Ref: The Buganda Agreement. Command Paper 1523 of 1961.  
Her Majesty's Stationery office  
The Barotseland Agreement Cmd 2366 of 1964. HMSO

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