

Ilizwi Lamafama Farmers Union

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Subject: Submission on the Traditional Courts Bill

Background

Eversince the promulgation of the TLGFA and CLARA, the rural communities were divided. This continuation of continuity of the divide and rule system of colonialism and apartheid as it was in the classical and in the contemporary is not acceptable and cannot be countenanced. The society has engaged in bitter struggles to redress this situation therefore participatory democracy need to be implemented. Communities must be involved in all processes of law-making.

Hence Ilizwi came up with the following issues for consideration by the NCOP:

- TCB is said to be unconstitutional, to rubbish the rights of women and the vulnerable and makes traditional chiefs powerful overlords who are not subject to democratic checks and balances
- It seeks to replace Black Administrations Act of 1927
- It vested more power to senior traditional leaders alone who will be allowed to form traditional courts and the rest of the community be excluded
- Communities would be denied their ability to participate in the formulation of living customary law in effective terms
- Section 9 of the bill states that 'women are afforded full and equal participation in the proceedings as men and TCB says something else
- The bill is not clear as to how the collection of levies in rural areas by traditional leaders whilst we are the tax payers
- The bill creates a second class justice system for over 17 million South Africans
- The defendant's rights are violated as the bill has no clear defense strategy (legal representation)
- It poses the constitutional contradictions with regards to the recognition of existing boundaries conflicting with principles of separation of powers
- The capacity of traditional leaders to handle legal matters and one year training is not sufficient
- TCB has been ambiguously worded in an attempt to disguise the fact that it is inconsistent with the constitution
- For the sake of millions of people living in rural areas who will be subject to this bill and who really are the most vulnerable in our society, we are saying that this bill be put to rest.

Thank you for providing us this slot to make this presentation from the constituency