

Traditional and Khoi-San Leadership Bill (B23–2015)

1. The purpose of the bill is to provide recognition of Khoi-San communities, leaders and councils; as well as combine all laws on traditional leadership to create a single law.

However, there are many problems with the bill:

2. It keeps the old apartheid boundaries formed under the Bantu Authorities Act (1951), which were adopted by the Traditional Leadership and Governance Framework Act (2003)
 - i. 'Tribes' = 'Traditional communities,'
 - ii. 'Tribal authorities' = 'Traditional councils'
 - iii. Boundaries of the 'traditional councils' recreate former Bantustans. (Clause 70) - (Figure 1 and 2 in the back page)
3. During apartheid people from different cultural identities were forced to identify as one "tribe" or put under tribes they didn't identify with. By recreating these boundaries the bill will impose identities on communities (Clause 3&4).
4. The TKLB will only apply within these boundaries of the former Bantustans. Therefore the bill will re-entrench tribalism and create divided citizenship between urban and rural citizens (Clause 3)
5. The bill side-steps the government's failure to transform traditional institutions through the Commission on traditional leadership disputes and claims (Nhlapo Commission) and traditional council elections (Clause 70)
6. The bill allows discretionary allocation of governmental functions in the form of unclear roles' to traditional structures (Clause 15, 19, 20 & 25)
7. The bill excludes ordinary people as all the decision making rests with traditional councils, royal houses and government without any requirement for community consultation
8. The bill promotes access to wealth and resources for the elite, including traditional leaders, while rural communities are excluded from benefitting. TKLB allows traditional councils to enter into deals with companies and municipalities without consulting the community. (Clause 24)
9. The bill strays from the Constitution's understanding of customary law as 'living law' that adapts and develops over time as practiced by people themselves. The bill instead uses the official colonial and apartheid notion of customary law
10. The bill treats traditional leaders and Khoi-San leaders differently. While Khoi-San leaders have jurisdiction over people only, traditional leaders have jurisdiction over land and all the people who live on that land.

Figure 1: Map of the former Bantustans

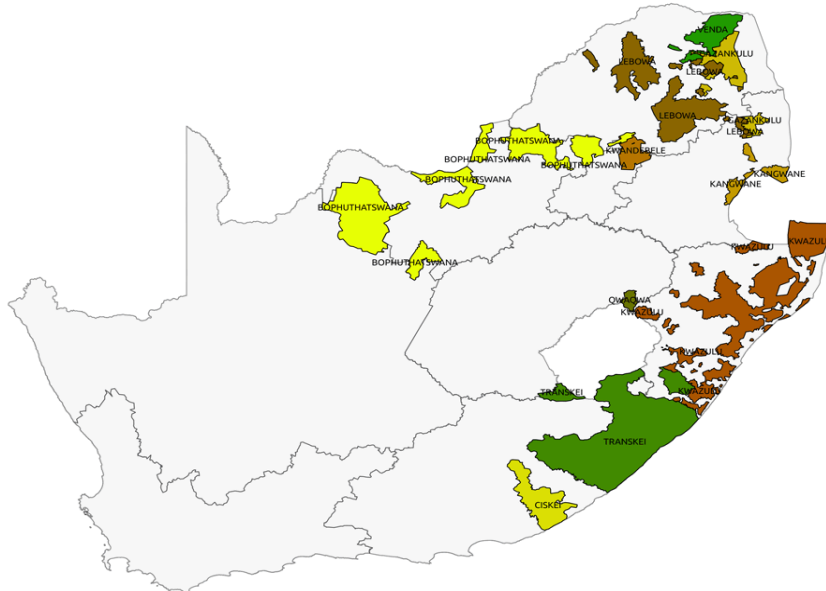


Figure 2: Map of Traditional councils

