

## Bafokeng Land Buyers' Association

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15 February 2012

Committee Secretary  
Select Committee on Security and Constitutional Development  
Parliament of South Africa  
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Mr G Dixon,

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### SUBMISSION: TRADITIONAL COURTS BILL [B1-2012]

Our telephonic request on the 15<sup>th</sup> February 2012 for a two-day extension on our submission regarding the abovementioned bill, bear reference.

On the 12<sup>th</sup> February 2012, the Bafokeng Land Buyers' Association together with Land Access Movement of South Africa, convened a number of community members from various traditional communities in the greater Rustenburg region of the North-West Province (See attendance register in **Annexure C1**). The two-day conference, held at the Rustenburg Recreation Centre, sought to:

- Create awareness about the Bill
- Compile experiences of community members about their tribal courts and the existing traditional dispute resolution systems and structures
- Register submissions by community members on the Bill, for later submission to the responsible Parliamentary (Portfolio/Select) Committee.

A number of concerns were raised by the community members. In the main, the affected community members submitted that the Bill will impact negatively on their fundamental rights in the following manner:

- i. Affected communities were not (made) aware of the Bill, as if the Bill was deliberately kept away from them;
- ii. Traditionally, tswana chiefs are of male gender, which automatically excludes women from ever presiding over traditional courts in their full capacities;
- iii. Some of the recognised traditional communities comprise of heterogeneous traditional systems with different traditional origins. Historically when chiefs were imposed by the colonial and apartheid regimes to preside over other (smaller) communities, the 'illegitimate' chiefs would force and entrench their traditional systems over the said weaker communities. This is the case in the Bafokeng 'tribe'. Some of the Bafokeng communities have since applied to various statutory bodies, including the then Nhlapho Commission to have these historical distortions corrected. The communities have also lodged claims for restitution of their land, which claims would determine their geographic boundaries and

traditional systems/structures. Historically, these boundaries and traditions were independent of that of the Bafokeng 'tribe';

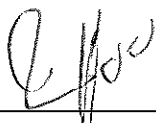
- iv. The status of most of the current chiefs is contested;
- v. The chiefs whose status is contested tend to be corrupt, acting in cohorts with mining companies, and under the auspices of various state authorities;
- vi. The chiefs are not fit to hold public offices;
- vii. The chiefs would turn to be biased and partial against those opposing their authority;
- viii. The Bill does not recognise other traditional dispute resolution structures at family and community levels;

Attached hereto, see further submissions on the Bill:

1. In copies of letters to the North West Provincial Legislature dated 30 January 2012 and 06 February 2012, titled: *Complaint on the Provincial Consultations on the Traditional Courts Bill [B1-2012] (Annexure A1,2)*;
2. In letters to the Rustenburg Local Municipality dated 01 February 2012 titled *RUSTENBURG LOCAL MUNICIPALITY'S VIOLATION OF A FUNDAMENTAL HUMAN RIGHT AND NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012]*; and the other dated 09 February 2012, titled: *NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012] (Annexure B1,2)*;
3. From the proceedings of the abovementioned Conference (*Annexure C1,2*);
4. In a handout depicting the general bad conduct by local chiefs titled: *Greater Rustenburg Communities Against Traditional Courts Bill [B1-2012]*. With a submission also by Chief Mmuthi Pilane (as previously submitted to the Rural Development Portfolio Committee on the repeal of the Black Authorities Act Bill, 21 July 2010) (*Annexure D*); and
5. Handwritten submission by Ms Constance Modingwana (*Annexure E*).

It is our humble request that our concerns over the Bill be noted; and our late filing be condoned. We further request that we be afforded an opportunity to make oral presentation to the Portfolio/Select Committee on the Bill.

In the public interest,



Othusitse Rapoo (Mr.)

Secretary: Bafokeng Land Buyers' Association, and  
Coordinator: North West NGO Submissions [B1-2012]