

**Submission on Traditional Courts Bill**  
**Charlotte Mokgosi, Makgobistad**  
**13 May 2008**

My name is Charlotte Mokgosi, born and bred at Makgobistad village in the district of Mafikeng in the North-West province.

My parents are Sehunelo Simon Mokgosi and Glory Ketshedile Mokgosi. They were born in Makgobistad and they are both late now. My mother died in 1986 and my father died in 1987. My one sister still lives in Makgobistad and the other in Phaposane in Ganyesa, also in the North West province.

I am unmarried and I regard myself as a member of the Makgobistad community because my parents and all my family still live there. I spend time at Mafikeng because I am looking for formal employment. I studied at the University of Northwest, Mafikeng campus and I am a qualified teacher. I worked at the Mmoledi High School, Makgobistad from 1993 until 1997, and I transferred to Mmabatho High School and resigned last year, to look for better opportunities.

The customary law system is important for me as a person who grew up in the rural area, and in village where we really enjoyed the benefits of being guided by customary laws, e.g. Ubuntu principles, respect for self and others, upholding of cultural values norms and standards. Life has really been good at Makgobistad, I would say with the senior traditional leaders in the previous years. Customary law kept the community together and as a community leader I observed the positive effected of customary law applied by respected community leaders elders and the youth. Things began to be really unbearable just after the inauguration of the present chief who from time to will take community matters into his own hands with either minimal or even no consultation with the community.

To highlight the reasons for the above allegations, few cases in point are as follows:

1. We, at Makgobistad started for the first time to hear the now chief calling himself "the owner of the soil" something that we've never heard his predecessors saying about themselves. Later we had to be victims of this kind of thinking.
2. The evidence of the present chief overlooking the essence of community consultation in running their affairs, was demonstrated in his ability to make a decision about the community funds, which he ordered to be deposited into his bank account or directly to his pocket and solely decided how much he can take to the tribal office for record keeping.

Chief Sandyland Motseoakumo is presently on trial for misappropriation of funds. Community members have received reports that Chief Sandyland tried to bargain with the prosecuting authorities together with the House of Traditional House of Chiefs and offered to repay the misappropriated amount of money. The community did not agree on this.

Please note that this is just but one case among many similar cases where the supposedly honourable chief and others managed to get away with murder.

3. The chief has from time to time proved himself to be oppressive and discriminatory in his style of leadership and even to go to the extent of taking advantage of the rural illiterate people. At the community meetings he will discriminate between the attendants, he will openly show preferences as to who he prefers to give permission to speak, and ignore those he feels uncomfortable with. This has been ongoing for too long now. When someone challenges the situation he or she is deemed to be disrespectful and causing

instability. This will also be addressed with threats that the “Act” allows the chief to stop the meeting and have it closed.

4. Other concerns do exist like refusing us to hold meetings as the community saying that it is only the chief who can give permission to do so or that the “Act” allows only the chief to call a community meeting and no one else.

The “Act” that the chief refers to is the North West Traditional Leadership and Governance Act. The chief invokes the authority of this act for a number of his authoritarian actions. I have read the act and I now know that the chief tries to assume powers which he does not have, and he does so on the basis of legislation.

5. Now with all the few examples above , the new bill came as a real surprise to us, as the Makgobistad community we’ve never heard about it before, maybe others have..., we don’t know. Anyway information is given towards the end of the Bill that the certain Departments/bodies/persons have been consulted, I personally take this as a very important part of the Bill for we will come to know those who sold us to the traditional leaders just like in the days of slavery- where people did neither have a say nor a choice about things relating directly to them.
6. What makes matters worse is that the Bill will now allow the customary law court to give sentences of forced hard labour and to take away customary law entitlements. This means that chiefs such as the one that I described will try to take away people’s rights and use the Bill to say that they have new powers to oppress us. This is not how we knew customary law in Makgobistad before the last chief came to power.
7. The Bill comes across as a real shame to the progress we thought we’ve made as South Africans. With Bills like these, we are not sure anymore what trails do we hope to leave for our children.
8. With a Bill such as this one, we will really be in a big problem with chiefs like the one I talked about earlier on, who would not think twice before they exert pressure on people unnecessarily. The inception of this will only make matters worse, as a result we recommend that the Bill be redrafted after proper consultation with all concerned stakeholders as was expected and as required in the constitution.
9. In closing I would like to request whoever is accountable, to explain to the taxpayers of South Africa what necessitated the efforts of coming up with a report such as “Report on traditional courts and the judicial functions of the traditional leaders” of 2003”. I ask this because it looks to me as if that report was ignored by the people who advocated the need for the Bill to be compiled .

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M.C. MOKGOSI  
Chairperson of the Makgobistad Community Committee