



22 June 2015

The Secretary  
c/o Ms NP Madide  
KwaZulu-Natal Legislature  
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3200

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Dear Sir/Madam

**Comment on KwaZulu-Natal Royal Household Trust Bill, 2015, as published in the Extraordinary Provincial Gazette of 15 May 2015**

The Centre for Law and Society (CLS) was established in 1994 (under the name Law, Race and Gender Research Unit) as a research and training unit in the University of Cape Town's Faculty of Law. Presently, the main project of CLS is the Rural Women's Action-Research (RWAR) Programme. The RWAR Programme is part of a wider collaborative initiative that seeks to support struggles for change by rural people, particularly women, in South Africa. An explicit concern is that of power relations, and the impact of laws and policy in framing the balance of power within which rural women and men struggle for change at the local level. Among other things, the RWAR Programme seeks to provide targeted forms of support to those engaged in struggles that challenge patriarchal and autocratic power relations in former homeland areas.

In this context, CLS is concerned that the KwaZulu-Natal Royal Household Trust Bill of 2015 undermines principles of democracy for people living within the former KwaZulu homeland, which to a large extent coincides with the domain of the Zulu Royal Household. In particular, the Bill seems to lack proper mechanisms for accountability by the Trust, including financial accountability. While the KwaZulu-Natal Royal Household Trust Act 6 of 2007 maintains provincial oversight over the actions of the Trust, in this Bill supervisory and accountability mechanisms by the provincial government are relaxed in a manner that grants greater independence to the Trust, while still receiving a large portion of funding from provincial revenue.

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In respect of the application of the Public Finance Management Act 1 of 1999 to the Trust, it is worrying that only a portion of the Trust's funds may be subject to the accountability and management mechanisms contained in that Act. It is furthermore unclear from the Bill how the distinction between the Trust's public and private (or exempted public) funding will be determined, enforced, and managed, for example through the use of separate accounts and finance officers. There is little indication of what the financial management and reporting requirements will be for exempted or private funding. Even if the Trust will be moving away from public *sources* of funding (as suggested by the articulated need for self-sustainability on the part of the Trust), this does not undo the need for proper accounting of the funds which will be used for a public *purpose*, namely the material maintenance of a recognised public office-bearer. According to the Bill, the Trust will furthermore rely heavily on government employees to make up its staff complement. As an institution that exists in order to perform a public purpose, made up of publicly-funded staff, and that receives at least some funding from the public purse, the Trust should in all respects be held accountable as a public institution in respect of its finances, without exemption.

Other issues that should be noted are that:

- There is no clear indication in the Bill of the circumstances in which the public procurement regime applies to the Trust, particularly since the Trust is an organ of state.
- There are provisions in the Bill that fail to include mechanisms whereby accountability can be enforced in the conduct or decisions of various actors (for example, clause 11 on the recusal of Board members).
- There are provisions in the Bill that fail to provide sufficient guidelines on the exercise of discretion by various actors (for example, clause 27 on the delegation of the Board's powers or duties).

These issues are significant given the current political climate, which has seen increased criticism of the Royal Household's resources and budget by other traditional leaders and the South African public. Following the coronation of Xhosa King Zwelonke Sigcawu, there have been renewed calls in the National House of Traditional Leaders for government to treat South Africa's kings equally (see briefing of House in presence of Deputy Minister of Cooperative Governance and Traditional Affairs on 3 June 2015). This has been reiterated in various news reports (see for example, 'Xhosa king demands to be treated like (Zulu) royalty' in *Sunday Times*, 24 May 2015). This Bill may be perceived to be reinforcing the existing inequality by giving control over vast sums of money to the Royal Household Trust without the imposition of adequate financial controls as required by law and without effective oversight by the KwaZulu-Natal Provincial Government.

Through the media, the public has also been made aware of widespread misgivings about the management of the Trust's financial affairs and ability to account for excessive spending (see 'Zulu king blows R54 million, now wants more of your money' in *Sunday Times*, 22 December 2014). In this context, the Bill should emphasise the need for accountability in the management of the Royal Household's funds and include strong mechanisms for monitoring and reporting on *all* sources of income as well as spending from *all* funds made available to the Trust. Detailed information on the Trust's financial activities should furthermore be made openly available to members of the public, who have a right to transparent and democratic governance under the Constitution of South Africa, and an interest in the curbing of wasteful expenditure by all public officials, including traditional leaders.

Finally, CLS asks that the Legislature accept and consider the content of this submission despite its lateness. The Centre only recently became aware of the Bill's publication for comment and was unable to meet the deadline for submission of comments. It is respectfully submitted that the period for submission of comments was unreasonably truncated and cannot result in meaningful participation by members of the public and other stakeholders as is required in terms of s 118 of the Constitution. For this reason, it is recommended that the Premier and Royal Household Portfolio Committee extend a further period for the receipt of submissions, and explain and advertise the availability of the Bill for comment widely through local newspapers, radio stations and on social media platforms – particularly for the attention of persons living within the former KwaZulu homeland areas, who are most directly affected by the Royal Household's actions. This would provide the Portfolio Committee with a richer sense of the Bill's impact on good governance and legitimacy within the KwaZulu-Natal province.

CLS urges that democratic principles and the rights of members of the public be taken into account in developing an approach to the management of funds received for the benefit of the Royal Household. Thanks are extended to the KwaZulu-Natal Legislature for this opportunity to communicate CLS's views on the Bill.

Sincerely,

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