

4 September 2012

To: Mr. Tjheta Makwa Harry Mofokeng, MP  
Chairperson  
Select Committee on Security and Constitutional Development

**Attention: Mr. Gurshwyn Dixon**

Secretary

Select Committee on Security and Constitutional Development

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PER FAX

Dear Sir

**Submission on the Traditional Courts Bill B1-2012**

Please see my written submission on the Traditional Courts Bill included in the following pages. The submission is based on my own experience with a traditional court. I hope that it will be seriously considered by the Committee and that it will encourage Parliament to stop the Bill.

I request that you kindly provide me with the opportunity to present my submission verbally at the public hearings to be held in Cape Town in September 2012. Any assistance with transport to the hearings and accommodation will also be greatly appreciated. I look forward to your response.

Many thanks

**Funeka Miriam Mateza**

Contact: 079 062 4045

## **SUBMISSION ON THE TRADITIONAL COURTS BILL B1-2012:**

### **FUNEKA MIRIAM MATEZA**

My name is Funeka Miriam Mateza. I was born in Cala in the year 1932. When we had the Transkei government in the 1980's, there was the Transkei Development Company (TDC). The project entailed that suitably-skilled people would be given an opportunity to purchase land for the purpose of farming. One such initiative of the TDC was launched outside the area of Nyalasa. At that time, Nyalasa was under traditional authority but our particular area was outside of the traditional authority's rule as it had previously belonged to white farmers. As one who was thoroughly trained in farming, I became interested in this project until I finally decided to become part of it. I was one of the original participants of the project. I purchased a vast portion of land that was allocated to me. It was transferred to me in 1983. Therefore, I became a title-holder of the land that I was farming. I took over the land and farmed in what was a very prosperous farm where I even had a distribution point in a complex that rendered many other different services. This complex was named Bessenger's Trading Station where I had various businesses. This was a very successful enterprise.

In 1986, the chief Gecelo of the Gcina Tribal Authority expanded his rule and claimed the land that I was occupying as an owner. I was summoned to the traditional court and they asked me how it was that I owned land when I was a woman. My response was that I had bought the land and therefore that I was a title-holding owner of it. They asked to see the title deed. I showed them the documentation as requested and the response that I received was that the title deed had no bearing on the matter as all land in the area belonged to the chief. Moreover, the traditional court told me that as a woman, I couldn't hold any land in my name. They said that even if the land had been my husband's and he had died, it would have been given to my husband's younger brother or my older brother. Therefore, I was told that I had to vacate the land, as it belonged to the chief, and leave the community. They said that they feared that I would influence their wives into doing bad things such as wanting to take

over their lands after their deaths. I couldn't understand how it could happen that even though I had worked so hard to buy the land and held a title as a testimony of my ownership, this had no significance. I was also confused as to why I couldn't have land as a woman as this area did not belong to the chief to begin with.

The next thing that happened was that a number of young men under the instruction of the chief, had gone and looted massive amounts of my belongings, vandalised my property and burned it down. This was so serious that I had to flee for my life - as the situation was very dangerous when it seemed that the chief did not want me there at all. The chief took the land and divided it amongst his male subjects.

#### THE ACTIONS I TOOK TO REMEDY MY PROBLEM:

- In 1986, I approached the Cala municipality which is now known as the Sakhisizwe Municipality. The response of the municipality was that they couldn't intervene in the matter.
- I then went to enlist the services of a lawyer and the matter still failed even though we never went to court.
- When I first heard of restitution in 1996, I approached the Department of Land Affairs. At the Land Affairs Department, I was told that the government only took claims of people who were dispossessed by whites. Therefore as my land had been taken by a black chief, they couldn't get involved.
- Over the years, I tried going to many government offices but I could still not get any help.
- After going to them on multiple occasions in the 1990's, the Department of Land Affairs said that maybe they could compensate me only for the money I had bought the property with. I found this to be unsatisfactory as I am a farmer and want to restore the livelihood that I know which was brutally taken away from me. Now I live in a shack, which is a life that is very much unlike the life I knew. All these crimes have been

perpetrated against me by a ruthless chief all because I am a woman. I would like to still believe that there is a principle of justice that still prevails in our country. Therefore, I plead with you to listen to our cries and take note of our anguish as this platform is our last hope.

Finally I would like to say that the Traditional Courts Bill will make the situation worse for women like me because it will give chiefs even more power than they already have. An example of this power is the levies (including things like sheep and bottles of brandy) that chiefs charge us. The Traditional Courts Bill will make chiefs seem untouchable. Women will then be even more afraid to challenge chiefs when the chiefs commit crimes against them.

I thank you.

(Based on a submission to the Portfolio Committee on Rural Development on the Black Authorities Act Repeal Bill)