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27 February 2012

To: NCOP

Email: gdixon@parliament.gov.za

And To: The Speaker: Limpopo provincial Legislature

Email: Boshomanet@limpopoleg.gov.za

Dear Sirs/Madam

Re: SUBMISSION ON THE TRADITIONAL COURTS BY SIKHETO JOHANNES BALOYI

1. I am a chairperson of Maphanyi Community Development Forum situated at Maphanyi village within Nkhensani Traditional Authority under Makhado municipality, Vhembe district of Limpopo province. The bill is relevant to me and the community members in my village in that we are residing under an autocratic chief and along with his undemocratic tribal council who currently dispossess land rights of people unilaterally.
2. As a chairperson of a Community Development Forum I am currently involved in a struggle, assisting women whose land rights are being threatened by the traditional authority. In this particular matter the Senior Traditional leader (Hosi) of Nkhensani Traditional Authority and his councils has unilaterally taken a decision to take a portion of land that women in the village are using for a broilers' project that was allocated land by the same traditional authority in 2003.
3. The dispossession started in 2011 when the traditional council embarked on an operation called "Operation Vhakacha" wherein the traditional council move around villages under its authority, explaining an imposed law to people about the chief's absolute power to take people's plough fields and land allocated for community projects for demarcation of residential sites without compensation the loss of such rights to land rights holder.
4. During August 2011 the traditional council sent two men to the project site to demarcate residential sites without communicating the decision to the project owners. The women reacted to the conduct by locking the two men and the car they were driving in the project yard for seven hours in protest of the council's action.

5. On the 16th of August 2011 the traditional Council together with the chief summoned the executive members to the tribal court wherein they were tried and fined R1 000.00. The women only managed to pay R500.00 of the fine and they still owe a balance of R500.00.
6. Following the event, in January 2012 I proceeded to the project site on receiving a complaint from the women that the traditional council is continuing with demarcation of the residential sites inside the project yard. While I was consulting the women, a tribal council by the name of Swifikile arrived and accused me of disturbing the people he send to demarcate the residential. I then lent that the sites they were demarcating were for the purposes of constructing hardware and a crèche.
7. It seems that the owner of the hardware had paid a lot of money at the tribal office to warrant them to dispossess the poor women.
8. My submission is that the chief and his council's conduct in dispossessing the land rights the women is discriminatory against women and it due to the fact that Nkhensani Traditional Council is comprises of only men who do not have any respect for women and they if the project was run by men they should not have treated them in the same way.
9. So if the bill is passed into law as it is, rural women and poor men will lose all the informal land rights where they are presently making livelihood and able to produce to feed their struggling families while the chief and his councilors sell land to people who can pay them huge amounts that are not even used for the benefit of the community.
10. By making a chief a presiding officer would imply giving the chief powers that he or she never had under Customary law and only had such powers in terms of the Black Administration Act of 1927 and the Bantu Authority Act of 1951 when apartheid powers were given to chiefs who were in support of the system while oppressing traditional leaders who did not support the system. So we feel that the bill is bringing back the unwanted laws of the Apartheid era where the new democratic government was supposed to abolish any law that has anything to do with laws and practices of the past.
11. My recommendation is that the bill has to be scrapped and until all the problems that rural people have about traditional authorities be attended to and chiefs made to realize that there are not government by traditional leaders whose role is only to preserve Customary laws as practiced by the indigenous people of this country. Also there should be a proper consultation with rural people and these has to happen in venues that are accessible to the rural people and have to be financed by the government.
12. I knew about the bill only when I visited the local office of the Legal resources Center when I needed help about the way our chief is treating land that poor women are using for making a living.

We trust that the submission will be received with the urgency that it has and we await your urgent response to all our concerns.

Regards,

S.J. Baloyi (076 460 9074)

Chairperson