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0930

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Dear Sir/Madam

#### **OBJECTION ON THE RE-INTRODUCTION OF THE TRADITIONAL COURTS BILL OF 2008**

I Risenga Samuel Baloyi (ID No: 4706065875088 and my subjects hereby wish to object on the re-introduction of the traditional court bill, 2008. I am an independent headman who have been made to settle at Tiyani Village in 1963. I have been forcibly removed by the then apartheid regime under the so called the Bantu Authorities Act of 1951 and "Artikels 18(1) van proclamasie no: 116 van 1949. INSAKE TREK NADIE WOONGEBIEDE and the Better administration of Deisgnated Areas Act of 1954. The then commissioner of Bantu affairs in our area and the one responsible for the enforcement of the said unjust legislations was Mnr. G.R. NEETHLING.

I lost three (3) farms, viz, Grootplaas 339LS with 1815, 919, hectares; Buffelsoek 403LS with 791,21 hectares and Koedoespoort 402LS with 808,4449 hectares. I was the sole ruler with no-one above my chieftainship, except the apartheid regime. My rank has been to an independent headman status after the dispossession of 1963. At Tiyani, under Makhado Municipality, I have no-one rather no senior traditional leader in control of my area of jurisdiction, that is Zonnebloem 105 and Grootfontein 104LT, with the exception of the democratically elected government. Though compensated in the year 2010 by the department of Rural development and land reform, my Tribal Authority / council with the

clan name of Ribungwani Traditional Authority or council has not yet been reinstated and I am still mourning for it and my rank as a senior traditional leader. I am presently an independent headman with five hundred (500) households and I am a sole ruler in my area, though there are five other independent headmen also in control. I object the traditional court bill of 2008 based on the following grounds:

It (TCB) gives reference to the Traditional leadership and Governance Framework Act, 2003, which I did not take part in the formulation and making of its law. We were excluded to the act that affects us.

The TLGA of 2003 marginalised the headmen under the chiefs and the Independent headmen whereas they are the ones that do or deal with the daily problems.

The order or sanction given by the traditional leader is not final and can be dismissed by the Magistrate court or the Minister of justice, so do this effect, all cases that will be heard by the traditional leader will be appealed to the higher body. I feel degraded and humiliated as a ruler.

A complainant may be lodged to the Minister and that if investigation is against my favour whereby I will be cancelled as a presiding officer, charging me with misconduct, gross irregularity or incompetence and may be deposing me as a ruler, are factors to be fearsome and reckoned.

The Bill may be approved as law or Act and later amended to my disadvantage and without my consultation, just like the Traditional leadership and government Act of 2003 which was passed without my consultation.

All court proceedings and sentences are vested in the hands and powers of the senior Traditional leaders, what in my case with no senior Traditional leader? Does it mean there will be imposition of senior traditional leader just like what the colonial masters and the apartheid regime did to others?

Fines paid are channelled into the stage coffers whereas in our tradition and culture, the fines imposed and paid are used to buy something for the traditional councillors involved in the hearing proceeding or process. The traditional court Bill silences the traditional councillors that play the vital role in dispute resolution thereby applying the traditional norms and standard of the Vatsonga culture and traditions.

The traditional court bill is an indirect way of assimilation because of the officers that will be delegated to assist us in leading with the T.C.A (Traditional Court Act).

The traditional leaders are born with inheritance as rulers and most of them are illiterate and cannot undergo training programmes or courses of the TCB and as such they are often assisted by the enlightened or elite group or section in that particular community.

It will therefore be difficult to interpret the statute/law applicable in the TCB. I am completely against the day to day comparison of the statement so as to note the agreement and disagreement on the traditional court proceedings, especially by the higher authority a more faults or loopholes will be discovered or found that can lead to gross irregularity and incompetence on my part as a presiding officer leading to my revocation as a presiding officer.

I am also against the unspecified corrective measures that can be taken against the presiding officer charged with gross irregularity or incompetence or misconduct. The remedial or corrective measures will be humiliating to me. I still maintain that my rank be reinstated as a senior traditional leader or I be elevation to the senior traditional leadership rank as by virtue of birth.

I'll concur with the traditional court bill, 2008, provided section 4(4) could be rectified in this manner: The minister may, in the prescribed manner, after consultation with the premier or the executive mayor, designate a headman; headwoman or a member of the royal family as presiding officer within their

jurisdiction and that the headman or headwoman will attend the prescribed training programme or course.

I hate to be designated by the senior traditional leader on the basis that I am very dubious about the legitimacy of some of the so-called senior traditional leaders.

If this clause could be rectified, I can humbly say thumb-up to the promulgation of the traditional court act 2008.

I say thumb-up to the mouthpiece or the voice of the voiceless and the oppressed, LRG Research Unit of UCT, COSATU, the chapter 9 institutions, civil society and ordinary rural people who objected and opposed this bill before we were made aware of it, keep it up!

Attached hereon are the names and signatures of my subjects who also opposed the bill.

Thank you

Yours faithfully

Hosi Risenga Samuel Baloyi & subjects

R.S. Baloyi