

Annexure A1

Letters to the North West Provincial Legislature dated 30 January 2012, titled: *Complaint on the Provincial Consultations on the Traditional Courts Bill [B1-2012]*; with the Response dated 01 February 2012; and the subsequent request to receive a mass submission by Greater Rustenburg communities

Bafokeng Land Buyers' Association

www.bafokeng-communities.blogspot.com
bafokengcommunities@gmail.com
Tel.: 014 592 6619 * Cell: 073 443 5699

Office No.9
49 Sleen Street
Rustenburg, 0300
North West Province, South Africa

30 January 2012

To:

Speaker: North West Provincial Legislature
Mr Nono Maloyi

Secretary to the Legislature
Dr Baba Schalk;
Private Bag X2018,
MMABATHO, 2735;
New Parliament Building,

Speakers Office,
2nd Floor,
Dr James Moroka Drive,
MMABATHO;
Tel: (018) 392 7003/ (018) 392 7070;
Fax: (018) 392 7192;

By- Email: yballim@nwpl.org.za

Complaint on the Provincial Consultations on the Traditional Courts Bill [B1 – 2012]

The Traditional Courts Bill (B1-2012) is draft legislation that was introduced to parliament in March 2008. The Department of Justice and Constitutional Development said that the Bill was to give more South Africans improved "access to justice" by giving proper recognition to the traditional justice system in a manner consistent with values in customary law and the Constitution. The Bill met with much resistance because many argue that it was inconsistent with both customary law and the Constitution.

On 13 December 2011 the department and the NCOP advertised the identical bill for public comment. The comments must be submitted to the department and the secretary of the NCOP Select Committee by 14 February 2012.

The Bafokeng Land Buyers' Association, is a voluntary association of rural traditional communities and individuals based in Rustenburg, many under the traditional authority of the 'Royal Bafokeng Nation'. Members of the Association, many of whom are poor and elderly, have terrible experiences with the Bafokeng Tribal Court and the conduct of the Bafokeng Chief in office.

There are currently a number of disputes lodged in the Mafikeng High Court and other statutory bodies against the Bafokeng chief. Our Association is a Party to the ongoing case 999/08 at the North West High Court in Mafikeng. The chief's territorial and traditional authority over communities that lodged land claims is in dispute. For various reasons, many of our members believe the chief is himself not fit nor competent to preside over the Tribal Court as the bill proposes.

The Association held a Conference at Berea on the 15-17 January 2012 together with a number of other organisations whose list is appended hereto. A number of concerns at the Conference emerged on the procedural and substantive flaws of the bill. We hereby wish to

bring those concerns to the attention of the North West Legislature and the committee responsible for the bill.

Procedural flaws on the bill: *(not exhaustive)*

- 1 A thorough awareness programme about the bill in our area has not been conducted;
- 2 In terms of the timetable for the bill, little time has been afforded for community consultations/participation;
- 3 The select committee that will consider the bill is made up entirely of men whilst the bill will affect all people on communal land, the majority of whom are women;

Substantive flaws on the bill: *(not exhaustive)*

1. The parties attending customary courts are denied legal representation;
2. There is no separation of powers where the traditional leaders are lawmakers, administrators and the judiciary;
3. Other traditional structures, *kgotla* and families are denied their customary traditional roles to resolve disputes;
4. The bill allows the traditional leader excessive powers to sanction forced labour; deprivation of customary benefits (land rights and community membership); and a threat to security of tenure.

In light of the above, we, the individuals, communities and organisations listed below intend to make submissions on the Bill.

We request however that you take urgent steps to ensure that this process is one of meaningful consultation, which includes requesting for a postponement of the deadline to enable you to properly create awareness of the contents of the Bill.

In terms of your constitutional duties set out in section 72, you are obliged to create enabling conditions for public involvement and conduct your functions in an open and transparent way. The bill will affect the rights of many of our people in a manner adverse to their Constitutional rights. We need a thorough public involvement in the parliamentary process. This will further ensure that the public participation process is more than a mere formal exercise.

Given the bill's current form and its abovementioned inadequacies, we would require of the bill to be withdrawn. We request the Legislature to bring the bill closer to the people and communities affected by the bill, and to make means for those communities to fully engage with the bill and the process in a meaningful way.

We would further request that you keep us abreast of all developments with regards to this process. You are kindly requested to contact the undersigned for further arrangements.

Yours sincerely,



Othuisitse Rapoo (Mr.)
Secretary: Bafokeng Land Buyers' Association and
Coordinator: North West Provincial Hearings
073 443 5699
bafokengcommunities@gmail.com

**Organisations and Individuals at the Berea Conference on the Traditional Courts Bill
[b1-2012]**

Constance Mogale – LAMOSA
Wimmie Menoc – BAROKOLOGADI
Patricia pilane – MOTHLABE
Mary Rathebe – BAKGATLA
Nomimang Mabalane – BAPHIRING
Marcus Senne – BAFOKENG
Labene Khunou – BAFOKENG
Shimane Amodisane – BAFOKENG
Johannes Mosime – BAFOKENG
Nombulele Mbandezi – GOEDGEVONDEN CPA
Mmuthi Pilane – Mothlabe
Phistus Mekgwe – BAFOKENG
March Motene – BAFOKENG
Sinah Motsielwa – BAFOKENG
Olebogeng Motene – BAFOKENG
Sithobekile Ngobese – LAMOSA
Othusitse Rapoo – Bafokeng Land Buyers' association
Sophie Phoshoko – Baphiring/LAMOSA
Cedifele Tawana – Goedgevonden/LAMOSA
Malekwa Lefu – Goedgevonden/LAMOSA
Tsepho Mekgoe - BAFOKENG

0183927166

NORTH WEST PROVINCIAL LEGISLATURE

Office of the Speaker

Legislature Building
Dr. James Moroka Ave
Private Bag X2018
Mmabatho, 2735

Tel: (018) 392 7001
Fax: (018) 392 7166

**Bafokeng Land Buyers' Association
49 Steen Street
Rustenburg
0300**

01 February 2012

Dear Sir/Madam

**RE : COMPLAINT ON THE PROVINCIAL CONSULTATIONS ON THE TRADITIONAL
COURTS BILL (B1-2012)**

Kindly note with reference to the above.

We confirm receipt of your correspondences dated 30 January 2012 bearing the above subject and we have accordingly noted its contents.

Kindly further note that we have taken liberty of forwarding such to the Portfolio Committee on Local Government & Traditional Affairs for action and intervention. You will therefore in due course, be duly advised on the outcome of the decision in this regard.

Hopefully this correspondence will reach you orderly.

Yours in good governance


**Mr Ben Bole
Manager, Speaker's Office**

LAGISO LE TSWELLEPELE

Annexure A2

Letter to the North West Provincial Legislature dated 06 February 2012, titled: *Complaint on the Provincial Consultations on the Traditional Courts Bill [B1-2012]*

Bafokeng Land Buyers' Association

www.bafokeng-communities.blogspot.com
bafokengcommunities@gmail.com
Tel.: 014 592 6619 * Cell: 073 443 5699

Office No.7
49 Steen Street
Rustenburg, 0300
North West Province, South Africa

06 February 2012

The Speaker
The North West Provincial Legislature
Private Bag x 2018
Mmabatho, 2735

Fax: (018) 392 7166
By email: yballim@nwpl.org.za

Attention: Mr Ben Kole

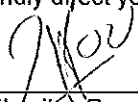
COMPLAINT ON THE PROVINCIAL CONSULTATIONS ON THE TRADITIONAL COURTS BILL [B1-2012]

Our letter dated 31 January 2012 on the abovementioned subject and your replying letter thereto dated 01 February 2012 bear reference.

It is the intention of the Association and other members of the affected public, to hold a peaceful public demonstration, not only against the passing of the bill by our North West Provincial Legislature, but also against the silent endorsement and 'blackout' by our traditional authorities on such important bills. Due to resource and time constraints, concerned members will not be able to travel 180km to Mahikeng, the seat of the North West Provincial Legislature, to make their submissions, a fault that mainly lies with the Provincial Legislature for failing to provide for adequate public involvement. To our knowledge, no public hearings have been called on the bill in our area to date.

It is our humble request, that the Honourable Speaker arrange for his office or for the office responsible for the bill to be present at Missionary Mpheni House, Rustenburg Local Municipal Offices, on the 13th February 2012 at 12h45 to receive our mass submission in the form of a memorandum on the Bill. Necessary application formalities have been engaged and finalisation is expected in the scheduled Wednesday triangle meeting. We hope, in the interest of justice, for your kind approval before the Wednesday triangle meeting.

Kindly direct your urgent response in this regard to me at the email address below.


Othusitse Rapoo (Mr.)
Secretary: Bafokeng Land Buyers' Association and
Greater Rustenburg NGO Coordinator: North West Provincial Submissions [B1-2012]
othusitserapoo@yahoo.co.uk
073 443 5699

APPROVED/ NOT APPROVED

Signature :
Name and Surname :
Position :
Date :

Annexure B1

Letter to the Rustenburg Local Municipality dated 01 February 2012 titled *RUSTENBURG LOCAL MUNICIPALITY'S VIOLATION OF A FUNDAMENTAL HUMAN RIGHT AND NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012]*

Bafokeng Land Buyers' Association

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bafokengcommunities@gmail.com
Tel.: 014 592 6819 * Cell: 073 443 5699

Office No.7
49 Steen Street
Rustenburg, 0300
North West Province, South Africa

01 February 2012

To:
The Executive Mayor
Rustenburg Local Municipality
Cnr Nelson Mandela and Beyers Naude
Rustenburg, 0300

Cc : The Executive Mayor
Bojanala Platinum District Municipality

: Director: Public Safety
Rustenburg Local Municipality

:The Manager: North West Provincial Office
South African Human Rights Commission

Public Protector
Legal Resources Centre

By- Email : mpho.khunou@webmail.co.za
kmatsepela@sahrc.org.za
janetlove@lrc.org.za, janett@lrc.org.za

RUSTENBURG LOCAL MUNICIPALITY'S VIOLATION OF A FUNDAMENTAL HUMAN RIGHT AND NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012]

On the 23rd September 2010, the community of Luka, enraged by the illegal demolition of their private properties by the Bafokeng Tribal Police, duly lodged, in terms of the Gatherings Act of 1993, a notice to the Rustenburg Local Municipality for a protest march at Luka village. The envisaged protest march was intended to present a memorandum of demands from the Luka Community to Kgosi Leruo Motlengi of the Bafokeng 'tribe'.

On the 29th September 2010, Mr Shoes Seshabela, the presiding officer of the triangle meeting and an official of the Rustenburg Municipality, refused to grant support to the community march on account that:

- (1) 'Permission' or 'authorisation' of the march had to be obtained from the very person the march was against,
- (2) The intended recipient of the 'memorandum of demands' needed to give expressed confirmation, by signing an acceptance/acknowledgement letter, that he will personally be present and available to receive the memorandum.

The wrong interpretation of Section 3(3)(j) of the Act by Mr Seshabela and other Municipal officials, led to a number of 'applications' by the Chaneng Community and Phokeng Youth to be similarly dismissed.

We wish to highlight to the Executive Mayor, that it is not a requirement of the Act, for the intended recipient of the memorandum of demands to 'authorise/permit' the march or to (personally) acknowledge receipt of the notice to march, as wrongly interpreted by the Municipal officials. It is unconstitutional to refuse assistance to the aggrieved, peaceful communities wishing to exercise their freedoms, in particular their fundamental right to demonstration.

Please be advised that the Act provides for a 'notice' to march, and not an 'application to march' as commonly misinterpreted by the Municipal officials. It would equally be an embarrassment for Municipal officials to disturb a picketing demonstration of less than 15 people, which does not require notification to authorities.

Our Association and other members of the public, intends to raise serious concerns about the Traditional Courts Bill currently out for public comments. The closing date for public submissions and presentations has been set for the 15th February 2012, only two months since the call in mid December 2011. The majority of our people residing in rural areas and under the governance of repressive traditional authorities are not aware of the bill. Alarm has been raised that the affected communities have not been afforded an opportunity to engage and inform the bill, and that their fundamental freedoms will be adversely affected should the bill be passed into an Act of Parliament in its current form.

It is the intention of the Association and other members of the affected public, to hold a peaceful public demonstration, not only against the passing of the bill by our North West Provincial Legislature, but also against the silent endorsement and 'blackout' by our traditional authorities on such important bills. Due to resource and time constraints, concerned members will not be able to travel 180km to Mahikeng, the seat of the North West Provincial Legislature, to make their submissions, a fault that mainly lies with the Provincial Legislature for failing to provide for adequate public involvement. To our knowledge, no public hearings have been called on the bill in our area to date.

It is our humble request, that the Honourable Executive Mayor, his delegate or any other relevant official, be present at Missionary Mpheni House on the 13th February 2012 at 12h45 to receive our mass submission on the Traditional Courts Bill on behalf of the North West Provincial Legislature, National Council of Provinces and the Select Committee responsible for the Bill (Kindly refer to clause 5 in the attached copy of the notice to march).

We hope, in the public interest, for your kind approval. Kindly direct further correspondence in this regard to me at the email address below.

Sincerely,



Othusitse Rapoo (Mr.)
Secretary: Bafokeng Land Buyers' Association and
Greater Rustenburg NGO Coordinator: North West Provincial Hearings [B1-2012]

othusitserapoo@yahoo.co.uk
073 443 5699

APPROVED/ NOT APPROVED

Clr Mpho Khunou
Executive Mayor: Rustenburg Local Municipality

Date:

CC: Director: Public Safety

NOTICE UNDER THE REGULATION OF GATHERINGS ACT

I am aware of the provisions of the Regulation of Gatherings Act (1993 Act No. 205 of 1993) and wish to notify you in terms of section 3 of the Act of an intended gathering. The particulars are as follows:

1. CONVENER Tshepo Mekoae 0736329588

2. ORGANIZATION

The convener is acting on behalf of the (state the full name of the organization)

BAFOKENG LAND BUYERS ASSOCIATION

3. THE GATHERING

KENTURKEY CONER BETHLEHEM AND OLIVER THAMBO

3.2 The gathering will be held

Time	Date	Duration
10 H:30	13/02/2012	3 HOURS

3.3 The venue for the gathering is (give full particulars of the place)

PARKING AT OLD RUSTENBURG MUNICIPALITY TOWN HALL

3.4 The municipality (number) 200 is participating in the gathering.

3.5 We appointed (number) 20 marshals. The list of names of these marshals is enclosed on a separate sheet or papers.



3.6 If the gathering is in the form of a procession or march:

3.6.1 If the gathering is in the form of a procession or march, state the exact and complete route of the procession.

From Corner Bethlehem and Oliver Thambo, through Oliver Thambo into Buyers Naude to end at the Old Town Hall Rustenburg Municipality parking

3.6.2 The participants will assemble at (time) 10 H30 at (place) Oliver Thambo

3.6.3 The procession will commence at (time) 11 H15 at (place) Corner Bethlehem and Oliver Thambo

3.6.4 The procession will end at (time) 12 H15 at (place) Old Town Hall Rustenburg Municipality and the participants will disperse at (time) 13 H30

3.6.5 The participants will be transported to the place of assembly by (state mode of transport) BUS
3.6.6 The number and types of vehicles to form part of the procession are: NO VEHICLES

4. TIME OF NOTICE

If notice is given later than seven days before gathering state reasons why notice was not given timeously.

Notice given on time

5. PETITIONS

We wish to hand over a petition to (name of designation of person to receive the memorandum)

EXECUTIVE MAYOR RUSTENBURG LOCAL MUNICIPALITY

At (place where petition must be handed over)

OLD TOWN HALL PARKING RUSTENBURG LOCAL MUNICIPALITY

6. OTHER FACTS PERTAINING TO THE GATHERING

Signed on 01/02/2012 at Rustenburg

CONVENTOR [Signature]

PUBLIC GATHERING CHECK LIST

- Marshalls- Names & Contacts
- Security- Names of Security Company (Armed & Not Armed)
- Road Users- Application for using public road(Obtain relevant permit)
- Authorization letter for the venue
- Liquor Sale (Temporary permit seven days period)
- Tribal Council permission letter
- ~~Responsible~~ Confirmation letter from ~~venue~~
- Floor sketch for the venue
- VIP expected (Name List)

Annexure B2

Letter to the Rustenburg Local Municipality dated 09 February 2012, titled: *NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012]*

Bafokeng Land Buyers' Association

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bafokengcommunities@gmail.com
Tel.: 014 592 6619 * Cell: 073 443 5699 * Fax: 086 236 1782

Office No.7
49 Steen Street
Rustenburg, 0300
North West Province, South Africa

09 February 2012

To:
The Executive Mayor
Rustenburg Local Municipality
Cnr Nelson Mandela and Beyers Naude
Rustenburg, 0300

Cc : The Executive Mayor
Bojanala Platinum District Municipality

The Manager: North West Provincial Office
South African Human Rights Commission

The Public Protector
Legal Resources Centre

By- hand

NOTICE OF AN URGENT MARCH DEMONSTRATION RE: TRADITIONAL COURTS BILL [B1-2012]

Our letter to your office dated 01 February 2012 bear reference.

We have not received a response from your office regarding our request.

Once again, our Association and other members of the public, intends to raise serious concerns about the Traditional Courts Bill currently out for public comments. The closing date for public submissions and presentations has been set for the 15th February 2012, only two months since the call in mid December 2011. The majority of our people residing in rural areas and under the governance of repressive traditional authorities are not aware of the bill.

We are deeply concerned that the affected communities have not been afforded an opportunity to engage and inform the bill, and that their fundamental freedoms will be adversely affected should the bill be passed into an Act of Parliament in its current form.

It is the intention of the Association and other members of the affected public, to hold a peaceful public demonstration, not only against the passing of the bill by our North West Provincial Legislature, but also against the silent endorsement and 'blackout' by our traditional authorities on such important bills.

Due to resource and time constraints, concerned members will not be able to travel 180km to Mahikeng, the seat of the North West Provincial Legislature, to make their submissions, a fault that mainly lies with the Provincial Legislature for failing to provide for adequate public involvement. To our knowledge, no public hearings have been called on the bill in our area to date.

We hold our local Municipality to be our first port of call during any kind of adversity. When a decision/bill/policy affecting local communities is introduced by any department in any sphere of government, we hope for our local Municipality to engage with such a decision/bill/policy, within the context of cooperative governance, and for the Municipality to involve and assist its constituent community to engage fully with such decision/bill/policy.

It is in this spirit that we humbly request our Honourable Executive Mayor, his delegate or any other relevant official, to be present at Missionary Mpheni House on the 13th February 2012 at 12h45, to receive on behalf of the North West Provincial Legislature, the National Council of Provinces and the Select Committee responsible for the Bill, our mass submission illustrating our discontent with the procedural and substantive issues in the Bill. We have duly requested, without success, the Office of the Speaker in North West Provincial Legislature or its delegates to come and receive the submission.

We wait anxiously for your urgent approval, requested also at yesterday's (Wednesday 08 February 2012) triangle meeting with your Directorate: Public Safety. The convener of the march, Mr Tshepo Mekgwe, can be contacted at 073 632 9588 for any further arrangements in this regard.

Sincerely,



Othusitse Rapoo (Mr.)

Secretary: Bafokeng Land Buyers' Association and
Greater Rustenburg NGO Coordinator: North West Provincial Hearings [B1-2012]

othusitserapoo@yahoo.co.uk
073 443 5699

APPROVED/ NOT APPROVED

Clr Mpho Khunou
Executive Mayor: Rustenburg Local Municipality

Date:

CC: Director: Public Safety