

Annexure C1

Attendance Register: Rustenburg Traditional Courts Bill Conference, Rustenburg, North
West Province, 12 February 2012

ATTENDANCE REGISTER

DATE: 12/02/2012

RUSTENBURG TRADITIONAL COURTS BILL CONFERENCE

RUSTENBURG CULTURAL VILLAGE

NAME AND SURNAME	COMMUNITY	CONTACT	SIGNATURE
1. OTHUSITSE H. RAPOO	MOGONO	073 443 5699	[Signature]
2. Lucas M. MEKGWE	BAPHIRING	078 995 1134	[Signature]
3. Emey I. MODINGWANE	Baphalane Barokologadi	0788473198	[Signature]
4. KHUPE M MEKGOE	BAPHIRING	073 061 2649	[Signature]
5. EZROM R. MODINGWANE	Mwameletswe	083 5505 725	[Signature]
6. Mangwetsi Rammela	Magong	072 276 1710	[Signature]
7. KHUTSACALO TSEB	Magong (Basebo)	083 366 1104	[Signature]
8. Lesego Moeng	Magong (Basebo)	078 334 1640	[Signature]
10. Maria M. Moeng	Magong (Basebo)	084 7560 321	[Signature]
11. Martin Senne	Kgale	083 3119264	[Signature]
12. Godfrey Sany Senne	(Mulan) kgale	0829619185	[Signature]
13. MAA eua	Sibeni Kgalis	082 755 2924	[Signature]
14. JOSHUA	Nyape THEKWANYA	072 706 5870	[Signature]
15. KENNEDY	PHOLOSE THEKWANA	079 154 1292	[Signature]
16. PHISTCAS S. MEKGWE	BAPHIRING	0719627696	[Signature]
17. J. TSHAMO	MEKWE LUKA	0742005448	[Signature]
18. ADOLPHINA - LENKOE	LUKA	073 378 7556	[Signature]
20. SYDNEY - RAPOO		083 085 2523	[Signature]
19. NCHIMANE - RAPOO		078 709 1925	[Signature]
20. SIMON - PHOMUSINE	"	076 046 1776	[Signature]
21. PHILLIP	ISOMELE TSHINA	072 469 7937	[Signature]
22. JOEL RAMOSWATHABA	TSHINQ	076 784 6789	[Signature]
23. NYATSI - RAPOO	MOGONO		
24. LEBONE	KHUYOU TSHINQ	072 175 8890	[Signature]
25. Obakeng	Mahuna Mogong	072 617 4933	[Signature]
26. HASSAN	Mekgoe Baphiring	076 273 0548	[Signature]
27. Obes	Makgale Lefarajolla	073 629 4933	[Signature]
28. JERMANIES	MOSIME Lefarajolla	073 165 2843	[Signature]
29. ERIC T. SETUKE	SETUKE	073 304 7172	[Signature]

ATTENDANCE REGISTER

12/02/2012

RUSTENBURG TRADITIONAL COURTS BILL CONFERENCE

RUSTENBURG CULTURAL VILLAGE

NAME AND SURNAME	COMMUNITY	CONTACT	SIGNATURE
30. SHIMANE MODISANE	Letanagame	0722999878	[Signature]
31. OPHIANE TPAU	LUKA (BAPHIRING)	0725116373	[Signature]
32. Makh Suth	LKO	0214238285	[Signature]
33. John Inwe	LRC	0118369831	[Signature]
34. Sayi Nindi	LRC	0118369831	[Signature]
35. JESIA MAKGATHA	PHOTSAWENG	0837439113	[Signature]
36. DANIEL MAKGATHA	PHOTSAWENG	0835172307	[Signature]
37. Obed M. Makgathu	Photsaweng	0720760900	[Signature]
38. Shikhani Shinda	LRC	0824647906	[Signature]
39. Tumai Murobo	Wits	0828492876	[Signature]
40. Matsatsi Boko	Lina Mago	0730866208	[Signature]
41. Grey Madingwana	Basebo (Mogung)	0788473198	[Signature]
42. Solomon Nkole	Basebo Mogyung	0734908839	[Signature]
43. KENNETH MAZHE	Mofhabe	0750125522	[Signature]
44. KHEITSAPALO PILANE	MOKHABO	0787600000	[Signature]
45. Mmuthi Pilane	MOKHABO	0760859306	[Signature]
45. Kgomoiso Khunou	TSITSIING	0714813090	[Signature]
46. Gadijele Tawana	Goedgedonele	0729848277	[Signature]
47. Tsholufelo Molwanwa	BAROKOLOADI	0834788655	[Signature]
48. Boikanyo Dithale	Barokwagadi	0761438228	[Signature]
49. Esther Ntshokang	LAMOSA	0731506431	[Signature]
50. Matheri Mosethi	Baphizing	0764798786	[Signature]
51. SOBHLA PHOSWOKO	"	0846937474	[Signature]
ELLEN MOLES MALULEKA	LAMOSA	0789869972	[Signature]
52. JEANNETT MATAMBATSIKA	LAMOSA	0732606319	[Signature]
40. JETHUSEMANCI MOROMANE	LAMOSA	0836605087	[Signature]
55. Sitobekile Ngobese	LAMOSA	0118331063/0765272	[Signature]

Annexure C2

Submissions on the proceedings of the Rustenburg Traditional Courts Bill Conference,
Rustenburg, North West Province, 12 February 2012

Submissions at the Rustenburg Conference on the Traditional Courts Bill [B1-2012], Rustenburg Recreation Centre, North West Province, 12 February 2012

No	Name and Surname	Comment	Village	Traditional Community
1	Obed Mokgatle	<ul style="list-style-type: none"> Bafokeng Tribal Court is presided by unfit persons who drink on duty. They do not look at the merits of the cases brought before them, they are only quick to impose a fine on the accused persons. There is biasness as less known surnames in the village are unfairly treated. E.g. Tribal court ordered one family, through Makgale Setshedi attorneys, to exhume their dead. There is also corruption at the Tribal Court as the very same presiding officer Mr Setshedi is the one who founded Makgale Setshedi attorneys. Why is the Chief given judicial powers in the bill whereas the other parties will not be afforded legal representation? There is a lot to say. Apartheid laws set down during the time of Paul Kruger are coming back. 	Lefaragathe	Bafokeng
2	Phillip Tsumele	<ul style="list-style-type: none"> We depend on our natural resources. When we fetch wood for fire, and sand for building, we get reprimanded and punished by tribal police. If you expose bad practice by Traditional authorities, you get punished. People fear the chief like a lion, they literally flee, terrified of the chief. If the chief is that feared, how are people going to feel free with him, given more powers in terms of this Bill. The chief will end up taking people's monies and stands. 	Tsitsing	Bafokeng
3	Nchimane Rapoo	<ul style="list-style-type: none"> The Chief refuses to discuss issues with community councils (<i>makgotla</i>). The Chief has taken powers of makgotla to allocate and adjudicate on stand allocations. The Chief has signed for mining rights and when there are problems with the mines, it is the communities who are left to deal with them. 	Mogono	Bafokeng
4	Orphan Tau	<ul style="list-style-type: none"> We should refuse to empower the chiefs in terms of this Bill because they are illegitimate chiefs who are manipulated by the apartheid systems and are psychologically oppressed. 	Luka	
5	Johannes Mosime	<ul style="list-style-type: none"> This Bill must be withdrawn. The chiefs are corrupt and do not have the interest of the communities at heart. Bafokeng Tribal Court is controlled by a gang which uses the tribal police to threaten communities during meetings. The chief wants to take communal land to give to the mines for open cast mining. He appoints his own illegitimate headmen whom he uses to enforce relocation. The headmen also garner voters by selling and allocating residential stands without consulting. The Chief's appointed headman is from Randburg and does not even know the norms and traditions of our community. These illegitimate appointees earn benefits at our expense. 	Lefaragathe	

6	Sefako Moraka	<ul style="list-style-type: none"> We are against empowering chiefs with this bill. The 32 clans of Bakgatla in Moruleng have been oppressed by the corrupt, fraudulent Nyalala Pilane. If we empower the fraudsters now, we are inviting more hardships. TLGFA must therefore also be reviewed. Customary practices are being altered. 	Moruleng	Bakgatla ba Kgafela
7	Sonny Senne	<ul style="list-style-type: none"> This Bill is going to oppress us even more. We must have seen it with land dispossessions by the previous Bafokeng Chiefs, dispossessing us of our mineral rights. Because of his status the chief steals investors from us, the land owners. 	Kgale (Phokeng)	Bafokeng
8	Ellen Moletsane	<ul style="list-style-type: none"> We do not support the Bill. Section 4(1) says they have consulted with SALGA. There has never been such consultation. Section 3(1)iii is untrue, the Director-General can impose a chief on non traditional communities. We do not want to be subjected to a chief. We are in a Trust land. 	Maluleke	Boshoek
9	Connie Ledigoane	<ul style="list-style-type: none"> These policies are not new. They started with CLARA. TGLFA is the perpetuation of the apartheid policy, Black Authorities Acts. This Bill is still the same, undemocratic. The 40% / 60% rule in the TGLFA is undemocratic. Some communities were forced to subscribe to illegitimate imposed chiefs, to form and strengthen tribal authorities and the homeland system. When two traditions are mixed, Zulu and Tswana, according to whose custom will the tribal court act? Demarcations are problematic. Number of Acts must be repealed and land claims settled. This Bill must be contested in the Constitutional Court should it pass. 	Magong/Tantanana (next to Bafokeng)	Land rights activist and member of the Magong and Tantanana village
10	Tsholofelo Mohwantwa	<ul style="list-style-type: none"> Court Bill will touch on customary practices. It repeals CPA and individual rights. To pass the Bill means we must amend the Constitution which guarantees individual and private rights. With Batlounge living in Bakwena territorial area, it means Bakwena will wrongly impose their own customary sanctions on Batlounge. Our present government is disappointing. It's deepening discrimination. We must examine the backgrounds/ lifestyles of the Ministers responsible for these types of Bills that seeks to endorse and bring back apartheid through the back door. People must refuse illegitimate gatherings called by illegitimate chiefs. I cannot be judged by a drunkard. Most chiefs are not born, they are elected. This Bill will bring further impoverishment. The current Bill on Land Reforms is contradictory to this Bill. In fact both Bills were never canvassed among communities. 	Madikwe	Barokologadi
11	Phillemon Khunou	<ul style="list-style-type: none"> The judge at our Tribal Court is a failed lawyer with a drinking problem. The chief himself is not sane and fit to be a chief. He threatens to send spies and tribal police to land 	Tsitsing	Bafokeng
12	Moabi Tladi		Thekwana	Bafokeng

13	Nape	<p>claimants. He is therefore threatening and could be biased should he preside over the tribal court.</p> <ul style="list-style-type: none"> We cannot allow to be sent back to apartheid. We claimed land purchased by our forefathers. They must stop flying all over (to Parliaments) to make oppressive laws when our claims have not been settled. We may want to have our own legitimate chief once our land claim is settled. We cannot be forced to be punished by a chief who was imposed on us by apartheid. 	Thekwana	Bafokeng
14	Hassan Mekgwe	<ul style="list-style-type: none"> Not too long ago the chief authorised demolition of people's tuck shops in our village. Police Station at Phokeng refused to open up criminal cases against the chief, referring them to the very same tribal court the chief must preside over. The tribal court did not want to open the cases. If people cannot open up cases, what more will happen if more powers are given to the chief? The chiefs brought their own rules and custom, imposing their own headmen. Only last week the chief threatened that those who oppose his appointments of illegitimate headmen should go to the High court. Last week people were told by the police in our non traditional village to go to their chiefs when there are disputes about stand allocations. We are not a traditional community and we were told to go to Bagopa or Bafokeng for help. 	Baphiring	Bafokeng
15	Gadifele Tawana	<ul style="list-style-type: none"> The Bafokeng chief sends his police even in areas which do not fall under Bafokeng. His Security threatens citizens who do not agree with him. On several occasions these tribal police threatened me on my life. They destroy community initiated projects. 	Goedgevonden	Ventersdorp
16	Connie Modingwana	<ul style="list-style-type: none"> Tribal Courts do not have rules/policies. They are not transparent and accountable. There is even no recording and communication system. 	Magong/Tantanana (next to Bafokeng)	Land rights activist and member of the Magong and Tantanana village
17	Sefako Moraka	<ul style="list-style-type: none"> Tribal Courts are not adequately resourced and are dysfunctional. Customarily, problems are solved at family level first and then progress to community council (<i>lekgotla</i>), where in most cases it gets resolved. The court councils comprise of old men who may not be amenable to the rapidly evolving jurisprudence. 	Moruleng	Bakgatla ba Kgafela
18	Sinah Motsielwa		Tsitsing	Bafokeng

Annexure D

Handout titled: *Greater Rustenburg Communities Against Traditional Courts Bill [B1-2012]* and depicting the general bad conduct by local chiefs. With a submission also by Chief Mmuthi Pilane (as previously submitted to the Rural Development Portfolio Committee on the repeal of the Black Authorities Act Bill, 21 July 2010)

Greater Rustenburg Communities Against Traditional Courts Bill [B1-2012]

(Handout at the Rustenburg Conference on the Traditional Courts Bill [B1-2012], Rustenburg Recreation Centre, North West Province, 12 February 2012)

In a democratic South Africa, a number of rural traditional communities in the greater Rustenburg region are worried of excessive unlawful sanctions the illegitimate, abusive, unfit, sexist and corrupt traditional authorities will enforce given their new powers the Traditional Courts Bill seeks to bestow upon them. The following are excerpts depicting the general conduct of the illegitimate chiefs from some of the most powerful traditional communities in South Africa today. These illegitimate chiefs have control over vast tracts of platinum rich lands:

1. Bafokeng Communities

Bafokeng Land Buyers' Association represents a number of rural, mine-hosting traditional communities fighting environmental, human, land and socio-economic rights injustices perpetrated by the mining companies (Impala Platinum, Anglo Platinum, Extrata and Lonmin) and the *Royal Bafokeng Nation (RBN)*.

In 2008, the RBN instituted application proceedings in the Mafikeng High Court against the Minister of Land Affairs and Agriculture seeking transfer of approximately 50 farms in the North West province. The Association and a number of Bafokeng communities opposed the application and contend that they are the rightful owners and not the RBN.

Most of the Bafokeng communities claim to have no ethnic or cultural connections with the RBN. They claim that they have been compelled through a political ordering process which occurred over a period of time to pay allegiance to the RBN, whose legitimacy is questionable. Second, the very title, RBN, is itself questioned. Some communities state that it was not the RBN, but the various communities in their separate capacities, who bought the land. However, the land could not be registered in their own name because natives were not allowed to own land, but also because the authorities adopted a distorted view of the tribal association. They assumed either deliberately or out of a misunderstanding that separate (smaller) tribes could not co-exist alongside the RBN. The colonial and apartheid states were willing to deal only with recognised Chiefs and, contrary to how communities viewed themselves, regarded the communities living within the Chief's 'territory', as delineated by the colonial and apartheid state, as part of homogenous tribal entities. This approach was integral to the colonial state's policy of indirect rule. Had these distortions not occurred, the land would have been registered in the names of the communities. The third interest that is affected concerns customary title to the land. In this regard, there are some communities who do not claim a right in the land as a result of a transaction leading to registered title, but claim that they have enjoyed undisturbed possession, use and beneficial occupation of the land since time immemorial.

In the meantime, various government departments and the disputed Bafokeng chief have authorized Impala Platinum, Anglo Platinum, Xstrata, Royal Bafokeng Platinum and Lonmin to cease and occupy communities' land, subjecting the poor communities to unacceptable noise and air pollution from mine operations. These mines continue to waste and pollute local water resources; have caused or exacerbated house cracks due to open-cast and underground mine workings; continue to divide the traditional social fabric/structures of the host communities; and refuse to acknowledge, respect and protect the rural mine-hosting traditional communities' heritage and indigenous (knowledge) systems.

-Bafokeng Land Buyers' Association & Sayi Nindi. 2011. *Royal Bafokeng Nation's claim to various farms* (Edited). Law, Race and Gender Unit, University of Cape Town.

2. Bachana – Chaneng Village

POLICE fired rubber bullets and used water cannon to disperse angry Robega villagers in Phokeng outside Rustenburg on Friday. The standoff follows the demolition of the villagers' houses and alleged continued harassment by tribal leader Kgosi Leruo Molotlegi at the weekend. Six Robega families had their dwellings demolished by Red Ants, on orders by the Royal Bafokeng Administration (RBA) under Molotlegi, for allegedly squatting on the Bafokeng land. During the Friday protests the villagers said they were tired of being harassed by Molotlegi, whom they claim had cut off their water supply. Eight villagers - four men and four women - were arrested for public violence and were released on warning a day later, according to local leaders. Police said the eight were expected to appear in court today but the leaders said they would appear in the Tlhabane magistrate's court on November 10. Colonel Junior Metsi of the North West provincial police also confirmed that the police used rubber bullets and water cannon to disperse a group of about 600 villagers, who had blocked the main road on Friday. This was after their villages were left without water the previous day. She said the villagers believed that Molotlegi was responsible for the closure of the water supply. But even after officials explained that the closure was due to a burst pipe during construction work at the mine, they insisted on marching to the mine. After the shootings family representatives told Sowetan that they were not squatting since the sites were allocated to them by the village council. They said they did not receive any warning from the RBA and were now accommodated at the local satellite police station and the homes of local leaders. But Kgosana Modisaotsile Mokate of the RBA said the land on which Robega village was erected "belongs to RBA and was allotted to the Bafokeng in 1996".

<http://www.sowetanlive.co.za/news/2010/10/11/uproar-over-demolishing-of-houses>

3. Baphiring- Luka Village

RESIDENTS of Luka, outside Rustenburg, have resolved to take on their tribal leader Kgosi Leruo Molotlegi for allegedly ordering the demolition of spaza shops in the village. At least seven new spaza shops were bulldozed about a week ago by heavily armed security guards, who claimed to have acted on instructions from Molotlegi. He is also said to have threatened to stop the water supply and demolish backyard rooms, which he said were rented to "foreigners". About 500 angry villagers, including some headmen, met at Thethe High School on Sunday and decided to challenge Molotlegi to stop further demolitions and to rebuild the demolished structures with immediate effect. They agreed to march on Molotlegi's head office on Saturday to submit a memorandum to him personally, calling on him to end the harassment of villagers and the demolition of shops. To guard against any repression from the tribal authority the villagers formed the Bafokeng Anti-Repression Committee and appointed Phistus Mekingwe as interim chairperson of the 12-member committee. According to Mekingwe, residents could not understand why the tribal authority targeted Luka alone, when spaza shops existed all over the tribal land, including Molotlegi's home village of Phokeng. He said the meeting resolved that the interim committee should consult Lawyers for Human Rights today and lodge a complaint with the public protector's office. "It was agreed every household should buy a whistle to blow every time demolishers entered the village," Mekingwe said. "The aim is to stop more demolitions, failing which the community will have to protect its properties. "We also want Molotlegi to follow the correct procedure in communicating with the community. He should make use of headmen as used to happen in the past." The chairperson said residents felt that they were being targeted for having lodged a claim for Doornspruit and Turfontein farms on which Luka has been built.

McKeed Kotlolo. 28 Sep 2010. *Sowetan*.

4. Baphalane ba Mantserre

- VILLAGERS' attempts to get a response from their sub-chief about their problems have been in vain. Sub-chief Saltiel Ramokoka of Baphalane Ba Mantserre Village, North West, also refuses to answer questions from the media about dissatisfaction with the financial administration of money paid to the people from mining rights. Community leader Jeffrey Molotsi said their last hope was Premier Edna Molewa, whom they met last week. Ramokoka was supposed to meet the people last Friday, but they found the gates of the tribal offices locked. It was opened only after police intervened.

At the meeting, Ramokoka evaded questions from the public and Daily Sun. Molotsi told Daily Sun the people burned the chief's car and offices out of anger and helplessness in 1994. "We hope they are not provoked again. In 1963, the community was moved from Limpopo to North West by the former government. Three years ago, the community was given a title deed to their former land ." He said there was a lease with Anglo Platinum of R123 000 a year, to be paid into a community trust for 50 years. "We have not seen any financial reports about what is happening to that money". Traditional leadership in North West failed to help us." Molotsi also claimed that Anglo offered R1,82 million to be used for development projects and R30 million as part settlement to those removed from their land. Ramokoka was suspended in 2004 after allegations of maladministration and abuse of power. Tshegofatso Mawela (19) who attended the meeting on Friday, said: "We came here because we were supposed to be paid for six days we worked at the chrome mine in February this year. Since then, the sub-chief told us he would pay the money he owes us". Advisor to the North West Premier, Willie Modise, confirmed they had met community leaders on Friday, but said it was difficult to say when they would respond .

- Phumla Sekeleni. 1 June 2005 P. 10. *Still not a word from our chief!* DAILY SUN

Rain clouds gather around the platinum giant as Baphalane ba Mantserre youth march. Government's silence is deafening over a plethora of woes suffered by the communities where mining takes place. The National Union of Mineworkers calls on platinum giant Angloplatinum to correct its evil ways of alienating the communities where its mining operations are located. The Baphalane ba Mantserre youth in association with the Young Communist League and support of the NUM in Rustenburg had today marched to Angloplatinum head office for the second time to demand that the platinum giant take its social responsibility seriously. The youth demand equity participation at Amandebult mine, the review of the notarial lease agreement and that the community be given preference when job opportunities occur. Each day, a new community comes up with a plethora of woes created by the platinum giant. Throughout South Africa today communities are unsettled, unhappy and alienated. In Limpopo, at Mokopane, Mochlotlo and many other surrounding areas, drinking water had been polluted; communities forced to vacate their arable land and dumped elsewhere. The NUM calls on the government to make a visible intervention as soon as possible to avoid an impending community level revolution against those who exploit their resources with no returns. The NUM is fully behind the communities and will do everything possible to ensure that their demands are met.

- Lesiba Seshoka, (NUM National Spokesman) 082 803 6719. 10 July 2008

5. Bakubung ba Ratheo

COSATU Moses Kotane Local strongly condemns all acts of the night and crime by the concerned residents of Ledig Village outside Sun City in Moses Kotane Municipality.

COSATU also calls for the immediate arrest of all who incited the poor community by publicly calling for the burning of those who allegedly misused or pocketed community funds including one ANC Councilor who allegedly publicly loud hailed that all must be burned including their belongings. COSATU further calls for calmness in the community of Ledig and humbly and politely request them to give space to the laws and constitution of this country and its relevant organs to deal with all matters concerning Bakubung BaRatheo's tribal funds and not to take laws into their own hands.

COSATU Moses Kotane Local strongly calls for the Premier of this Province Comrade Thandi Modise to release all reports on issues of the Bakubung BaRatheo Tribe and the Wesizwe Mining Company as it has been brought before COSATU that three teams being Gobodo Auditors and two (2) Administrators (Masilo and Dlamini) appointed by the North West government have compiled reports and those reports have never been brought before the community so as to clear the wind and so that all implicated be arrested and have their day in court.

COSATU demand that the government of the North West treat this matter as a matter of urgency by releasing all three (3) reports in 24 hours as it is long due so that there be peace in Ledig and so that all implicated can be dealt with and those not be free to live their lives without fear.

-North West News. 09 Nov 2011. *COSATU urge for calm in Ledig*

6. Bakgatla

- The guilty verdict imposed on the Bakgatla-Ba-Kgafela's flamboyant Chief Nyalala Molefe Pilane in the Mogwase regional court this week is the right recipe for removing him, says his uncle Matlapeng John Pilane. He was reacting after magistrate Stefaan du Toit had found Nyalala, 46, guilty of 18 counts of fraud and theft totalling R38 million. Matlapeng Pilane is a member of the Bakgatla-Ba-Kgafela royal house, which has been calling for the axing of the chief and his entire tribal council. The royal house wrote to North West Premier Edna Molewa asking her to remove Nyalala from the chieftaincy. Molewa declined, saying the chief was innocent until proven guilty by a court of law. "Now that the guilty verdict has been pronounced by a magistrate we want the premier to act and remove this man," Matlapeng said.

The royal house has accused Nyalala of attending to tribal matters without a mandate, enriching himself and his cronies and of bringing the tribe's name into disrepute. The house also alleged that the chief went into business with C and L Mining Resources without consulting the tribe.

-Winkie Dibakwane. 6 June 2008. *Uncle welcomes court's verdict.*

Available at: http://www.sowetanlive.co.za/sowetan/archive/2008/06/06/uncle-welcomes-court_s-verdict?service=print

-The Mmabatho high court has thrown out an attempt by controversial Chief Nyalala Pilane to block tomorrow's mass meeting of the BakgatlaBa-Kgafela planned to announce his suspension. Judge Leah Gcabashe ruled that there was no urgency in the matter in which Nyalala sought to stop the royal house from going ahead with the meeting to announce his ousting. The applicants in the matter included Nyalala and the traditional council of Bakgatla-Ba-Kgafela. The respondents were David Mpule Pheto, Segale Pilane, Thari Pilane, Matlapeng John Pilane, Community Property Association and the Concerned Bakgatla Anti-Corruption Organisation. Tomorrow's meeting, scheduled for Moruleng Stadium in Saulspoort, North West, has been called by members of the royal house to inform the 350000 tribesmen from 32 villages of the decision to suspend the chief. This follows the royal house's decision last month to suspend Nyalala because he conducted the tribe's affairs as his own, failed to consult other chiefs on serious matters, enriched himself using the tribe's assets and because of the current theft, fraud and corruption charges he is facing. In a bitter spat this week Nyalala issued a statement on Motsweding FM referring to his suspension as "useless". "I cannot be suspended by a bunch of people who are but anarchists who are against development," he said. Nyalala boasted that he was inaugurated by the late paramount Kgosi Lenchwe II of Botswana as a legitimate chief of the Bakgatla in 1997 and no one could tell him to step down. In retaliation Kgosi Segale Pilane from the royal house said members of the house were members by virtue of their birth and not because Nyalala so wished. "Nyalala has a misguided perception that he is senior in the royal house and that he can determine, as and when he wishes, who should constitute the royal house," he said. The decision to suspend Nyalala was forwarded to the office of North West Premier Edna Molewa. But Molewa's office this week issued a statement saying the chief was innocent until proven guilty in court.

-Winkie Dibakwane. 14 March 2008. *Chief's case thrown out of Mmabatho court.* Sowetan

http://www.sowetanlive.co.za/sowetan/archive/2008/03/14/chief_s-case-thrown-out-of-mmabatho-court?service=print

7. Bakgatla ba Kautlwale

-My father Mainole Pilane and I have spent the last decades trying to protect our land and resources for our community. We are the descendants of the 11th house of Chief Pilane the First and we call ourselves the Bakgatla ba Kautlwale. According to history and custom we should be equal to the Bakgafela. This is a long story and it would take me a long time to explain it here. I am afraid that you would get lost in the details. All I want to say is that three commissions have heard our story and 2 of these supported our contention. But nothing came of this because the apartheid government defined us to fall under the Bakgatla Bakgafela "paramount" and we have never been able to escape this historical mistake. In 1999 when my father tried to stop Nyalala from secretly using community funds to buy a private farm for himself by insisting that a community resolution was necessary, Nyalala excluded him from the royal council. He replaced him with a headman whom he appointed. This so-called headman Tlhabane Pilane does not even live in our area, and is not from our royal family. Nobody accepts his authority and Nyalala did not even try to introduce him to the community and hold a celebration because he knew that according to custom only our royal family can appoint our chief in consultation with the community. An outsider had to be appointed because nobody from our family was prepared to go along with Nyalala's secret money deals. (Incidentally, Tlhabane himself admitted to the Restitution Commission that he was forced to take up the position because Nyalala wanted to block my father who was the rightful chief at the time.) The consequences of the Bakgafela being wrongly elevated above other royal houses and of an outside headman being appointed over us have been very serious. For example:

- We tried to lodge a restitution claim to our original land at Witkleifontein – which is rich in platinum and chrome. However, our restitution claim was lodged under the name of BaKgatla baKgafela and Nyalala is now claiming that the land, which only we as the Ba Kautlwale ever occupied, belongs rightfully to him. He hired a lawyer to follow up the claim and paid him R20,000 a month, collected from the community, until my father managed to stop that.
- The other serious problem for all the Bakgatla is that the revenue from our minerals all goes to Nyalala and we never see any of the proceeds in our communities. This is one of the issues that surfaced in the corruption trial. It has been a thorn in our sides for many years.
- Plus, the proceeds from all the infrastructure that we as the Ba Kautlwale have developed on our own land at Welgewacht (where we have built 3 schools, a postoffice, a community hall and a clinic) all go to the coffers of Nyalala at Moruleng in Saulspoort and we never see it again.

We have traveled high and low and approached various structures to try to solve these problems over the years. Most recently (in July 2009) we wrote a letter to Chief Nyalala, the chief magistrate, the station commander, the mayor, the chair of the North West House of Traditional leaders, the MEC for Local Housing and Traditional Affairs as well as the Premier stating that because of ongoing corruption and the historical problems inherited from apartheid the clans of the Ba Kautlwale had decided to establish themselves as a separate traditional community. The Dept of Traditional Affairs responded by trying to set up a meeting with Nyalala and other neighbouring Bakgatla royal houses at our village on the 18th of December. However Nyalala did not come. The meeting was postponed to the 21st of December and again he did not attend. Instead, officials from Traditional Affairs and the House of Traditional Leaders came and advised us to make an application to the Premier's office. They advised us that we must invite the neighbouring villages and inform them of the process. We thus set up a meeting of all our clans for the 6th of February to discuss the issue, take a formal resolution and write the application to the Premier. However Nyalala called the police to stop the meeting taking place on the 6th of February. On the 8th of January I was served with a summons indicating that Nyalala and his Traditional Council were interdicting us from holding any meetings because we planned to discuss "seceding from the tribe". Since then I have had to spend all my time trying to find lawyers to defend us in court.

-Monica de Souza & Mazibuko Jara. 21 July 2010. Submission by Mrs Mary Mokgaetsi Pilane and Mr Mmothi Pilane of Bakgatla baKautlwale To Rural Development Portfolio Committee On The repeal of the Black Authorities Act Bill in *Custom, citizenship and rights: Community voices on the repeal of the Black Authorities Act*. Law, Race and Gender Research Unit, University of Cape Town.

Annexure E

Handwritten submission by Ms. Constance Modingwana titled *Submission on the Traditional Courts Bill (B1-2012)*

SUBMISSION ON TRADITIONAL COURT BILL (B1-2012)

①

PRESENTER : CONSTANCE MODINGWANA

CONTACT NO : 0788473198 / 0712585701

AREA REPRESENTED : RHEENOSTERSKRAAL 563 JA (BASEBO)

PREAMBLE

Chapter 2 of the Constitution serves as our term of reference for right of human dignity (Bill of Rights).

INTRODUCTION

We are fully rejecting the Bill, as it is deviating from the Constitution, and the following sections give birth to our argument. We are the Nkeles and Moengs (buyers of R,heensterkraal 563 JA)

THE NATURE OF TRADITIONAL COURT

Page 7 of the Bill, that is in line of Section 166, operate in accordance with the system of customary law and norms. When we look at the types of communities within provinces, within rural areas in particular, it is not every community that is traditional, we differ with ethnics, because this very statement is basing on customs and norms of which is not the true reflexion. The nature itself is a full misconception.

Chapter 4, Section 2, Subsection 2 (b) (i) (ii) (iii) in relation to co-existence, peace and harmony within communities that will be promoting building nation, in line with the constitutional values, but at the same time the Bill contradicted itself, where democracy will never be practised, e.g. 60% elections of tribal members by chief himself v/s 40% from the Community. No transparency was practised thereof, and spirit of mistrust will be developed as Kgosi can even appoint or elect his own favourable members, no transparency.

(2)

Section 4, Subsection 4.3 is outlining the issue of broader consultation and cooperation has been conducted, even with SALGA (South African Local Government Association). Basing on Act 32 of 2000, Municipal Systems Act, addresses the following:

That the Preamble is outlining the issue that if there is any challenge that is facing the municipality a strategical measure need to be applied, to pull down the situation, meaning that if transparency was practised, affected rural areas or communities could have consulted. Therefore SALGA, as a body shoulder responsibilities for any municipal programme, failed us Agreement drawn during the Conference about this Bill between SALGA, Traditional Leaders and other bodies, could have been finalised in conjunction with the Municipalities, where communities would be consulted through the Intergovernmental Relations Office for proposals. We therefore feel like been ignored and full exempted and regret for whatever the ~~specification~~ of this Bill contains.

The Integrated Development Plan, as a tool for service delivery, outlines the involvement of communities within the municipal jurisdiction. Therefore no one has been consulted, coordinated even recognised. Reluctancy of our own chiefs in terms of co-existence, gave birth to this, because they ^{are} having a myth that their roles addressed within the ⁱⁿ constitution were changed to tasks, and they were now dissatisfied, deviating from all laws that are of the benefit to communities. CONTROLISA is really NEGATIVE and this cannot be tolerated.

OATH OR AFFIRMATION OF OFFICE

Page 9, Section 15, Subsection 2 says:

The Director General must establish and keep a prescribed register of every traditional leader in the traditional court in question who has taken the prescribed oath to control over properties that does not even fall or owned by him.

RECOMMENDATIONS

It is then recommended that:

- Our property, i. e. Rhenosterkraal 563 50, be reserved from supporting this Bill, because it is owned by ourselves as biological and direct descendants of this purchased property.
- A petition be sent and presented to the President's office as a leader of this country, and matter be taken to court as this Bill is deviating from the issues contained with the Constitution and the Principle of *Bothus Bete*.
- All repeat legislations be set aside, and Chiefs practising them, be taken to court for deviating from that.

[NB] Our full DETAILED SUBMISSION WILL BE SUBMITTED, BECAUSE IT HAS BEEN A SHORT NOTICE THEREOF.

Signed at Rustenburg on the 12.02.2012.

Thanks

Yours
K. Mpedi