

Sehokho Community Property Association

P.O. Box 73046

Sehokho

MBIBANE

0449

10 February 2012

Secretary of Committee:

Gurshwyn Dixon

Email: [gdixon@parliament.gov.za](mailto:gdixon@parliament.gov.za)

and

Nonwakazi Stemele

[nstemele@parliament.gov.za](mailto:nstemele@parliament.gov.za)

Dear Sir

**Re: SUBMISSION ON THE TRADITIONAL COURTS BILL BY THE SEHOKHO CPA**

1. We are members, descendants and successors in title of the co-buyers of the farm Roodekopies portion 2B that consists of various ethnic groups from various tribes, namely, Bakwena, Bapedi, Bakgatla and Barolong. We are recognized by the neighbouring communities as an independent community with independent control in its own right over our farm. The previous Apartheid government had imposed a traditional leader/chief over our land under our protest. The bill is relevant to us as private land owners who do not want anything do with chiefs and do not want chiefs to interfere in our dealings with the land that our forefathers bought from their resources.
2. Our community exercises rights in relation to land and related matters in terms of Customary Law. Customary law system provides us with the right to our land to invest produce of our land to our families which make up the Sehokho community. Our community enjoys a right of allocation of residential sites to families of Sehokho community. The Customary right of each family to the residential sites and plough fields are recognized as been inherited through the successive generation. We use

grazing land on a communal basis with every member of the community having right to utilize the land for commercial grazing.

3. As indicated above in paragraph 1, the old Apartheid Bantu Authority Act of 1951 imposed the jurisdiction of Bakgatla ba Mocha tribal authority at Marapyana (Skilpadfontein) which is situated at 14 km away from our village. The chief and his family are not the co-buyers of the farm we are occupying and therefore he cannot have jurisdiction over the land belonging to others.
4. Currently the chief that claims and has been imposed on us unilaterally demanded out rubberstamp to his office for no apparent reason. We do not want our rubber stamp to have the chief's name because we are not his subjects and he did not buy the land with us. The chiefs went to all the financial institutions (banks) at Belabela (Warmbath) and Hammanskraal where we all do our banking and .instructs the bank managers not to assist any person who come to the bank with a letter of proof of address that does not come from him, thus forcing people from our village to pay tribal levies in order to be issued with such letters. We are afraid that if the government can pass the bill into law as it is, we will be back to the bad situation we were in during apartheid Bantustan regime where chief we dictating to people rather than opening issues for discussion in terms of our Customary law that provides for reconciliation.
5. Our experience under the imposed rule of the apartheid tribal authority include amongst others the following:
  - 5.1. The chief and his tribal council forced us to collect money to build tribal office at his kraal;
  - 5.2. He forced us to collect money to build a Health centre, Khamane High school, Lekholane Secondary school at his (chief)'s village;
  - 5.3. He collected money from us for the unveiling of the tombstones of the previous chiefs who are his ancestors who are not connected to us in any way;
  - 5.4. The chief and his council use to take development subsidies from the government department of education for the building of schools for selfish purposes in the tribal office despite the subsidy have been provided for the schools in our community; and
6. The chief is taking rent for the bus depot of the Bophuthatswana Holdings, measuring 50m square on our farm without compensating us for the loss of use of the land.

7. As a community without the chief or the tribal council, we unanimously agreed to collect money and build Sehokho Primary School, Semonate Secondary school and Phaphama Pre-school.
8. The Traditional Courts bill is contradicting the Constitution of the country in the following manner:
  - 8.1. There were no consultation with the rural people residing within the jurisdiction of chief's tribal areas;
  - 8.2. The bill discriminates women;
  - 8.3. There is no freedom of speech and no right of representation even when people are to appear on criminal charges;
  - 8.4. There is no freedom of choice of a dispute resolution mechanism. People are forced to resolved matters before the presiding officer who is a male chief;
  - 8.5. There is no separation of powers. The chief will determine the customary law, enforce it and presides over the law. The chief will be a player and referee;
  - 8.6. The bill is not in line with the Constitution of the country.
9. The bill should be amended to only relate chiefs' land and not land under private or hold under legal entities such as trusts and CPAs. This bill discriminates against black land ownership because it does not interfere with governance of white land owners who are neighbouring jurisdictions of traditional leadership as it does on us who are co-land buyers who under CPA.
10. Our Constitution has three spheres of government only, namely, the National, Provincial and Local (municipal) government. Our question is does the TCB wants to create a fourth sphere of government that is not democratically elected in the new Constitutional dispensation?
11. We appeal to the NCOP, Provincial government and the National Assembly to withdraw the bill before it confuses the citizens of our country.

Traditional Courts Bill exam the examination before the examination exams you otherwise you would be troubling the rouble before the trouble troubles you.

Thank you God Bless.

Regards,

MARIKOE RODNEY MAODI

Chairperson : Sehokho Community Committee (072587 5780)