

# AMPLIFYING RURAL VOICES



## STOP THE BANTUSTANS CAMPAIGN UPDATE

ISSUE 3 | JUNE 2023



### TKLA DECLARED INVALID BY CONSTITUTIONAL COURT

On 30 May 2023, the ConCourt handed down judgement in the case: Constance Mogale and Others v Speaker of the National Assembly and Others, in favour of the applicants. The ConCourt found that Parliament failed to ensure adequate public participation and thus declared that the TKLA is invalid. The Traditional and Khoi-San Leadership Act is now referred back to Parliament - but the invalidity is suspended for 24 months. The ConCourt found that the arguments from rural people who attended hearings was evidence that Parliament did not conduct the public hearings fairly.

Issues that the ConCourt judgment cited include: last minute change in venues, some hearings cancelled without reason, no transportation available to attendees, lack of pre-education workshops for attendees, no translations of the proposed law, and general hostile treatment of some attendees who opposed the TKLA. This judgment confirms our rights to be consulted on law and policy making - especially when this affects our land rights and livelihoods. Read the [judgment](https://collections.concourt.org.za/handle/20.500.12144/38246) at <https://collections.concourt.org.za/handle/20.500.12144/38246>

### FOCUS ON WOMEN'S LAND RIGHTS

For rural women, access to land and customary land ownership is under attack. Rural women are often the first victims of land grabs by traditional leaders because they are assumed to be without any protection. Tsakane Ngobeni, in Phalaborwa (Limpopo) had her plough fields destroyed and demarcated to white commercial farmers without her consent. Similarly, Enifer Sekatane, in Bushbuckridge (Mpumalanga) had her plough fields demarcated as residential sites without consultation. For women farmers, losing their land means they have lost their harvest and livelihood without compensation. Protecting women's land rights can address food insecurity and tackle violence against women. But government continues to neglect women's land rights in favour of appeasing traditional leaders.

### CAMPAIGN SUPPORT

The #StopTheBantustans campaign continues to grow over the years thanks to commitment from supporters, funders and allies.

For more information visit <https://stopthebantustanbills.org> and follow @StopTheBills [Twitter] or @Stopthebantustanbills [Facebook].

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## VILLAGE DIALOGUES UPDATE

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### SPOTLIGHT ON COMMUNITY CONSENT: MAKHASANENI

The community of Makhasaneni, outside Melmoth (KwaZulu-Natal) objects Jindal Africa's application to mine iron ore in the area. The residents oppose the application because they will lose their ploughing, hunting, grazing, harvesting, fishing, and other associated land rights. The community also want Jindal to compensate them for the 2012 environmental damage they suffered when Jindal initially carried out prospecting, and failed to rehabilitate their wetlands and plough fields that were destroyed. Jindal applied to mine opencast iron ore on more than 20 170 hectares affecting several villages, communities and customary landowners with the expected relocation of schools and graves, and resettlement of households.

But there is strong opposition: commercial farmers, business owners, and land claim beneficiaries surrounding Melmoth are rallied together to oppose Jindal. There are some groups in favour of mining such as traditional leaders and other businesses that will benefit. The #stopthebantustan campaign is working with partners to support community efforts to oppose mining.

### SPOTLIGHT ON TRIBAL LEVIES IN LIMPOPO

ARD partner, Nkuzi Development Association and 7 applicants from traditional communities in Limpopo are challenging the constitutionality of tribal levies. On 15 May 2023, the applicants turned to the High Court (Limpopo Division) to declare s25 of this law to be invalid.

This practice of charging levies is wide-spread across South Africa, but these taxes are only levied on traditional communities in the former Bantustans. Specifically, Section 25 of the Limpopo Traditional Leadership and Institutions Act 6 of 2005, permits traditional councils to levy a traditional council rate on taxpayers. Levies are charged for different reasons: including, burial plots, allocation of residential sites, proof of address or any other unlawful reason. At times, women are also discriminated against because their land rights are not recognised - without a male relative. The applicants also want the court to declare all traditional councils in Limpopo unconstitutional because there was no elections held for traditional councils for 20 years. Without these elections there is no hope for community participation in decision making concerning land deals and investments.