

To: COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Att: Ms R S Mogaladi

Email: legislation@cogta.gov.za

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**LIMPOPO COMMUNITY SUBMISSION ON TRADITIONAL AND KHOISAN
LEADERSHIP ACT DRAFT BILL**

We are grassroots community activists from the rural settings in Limpopo. This loose social local formation was established years ago with the purpose to advocate for social, economic and environmental justices.

It is appalling that us rural dwellers still experience extreme discrimination and alienation in the hands of the rural elites. We are forced to pay tribal levies and fines to traditional authorities and the monies are not accounted for. A lot of activists get assaulted by the vigilantes masquerading as VIP or security protection units of the traditional leaders. This happens when communities deemed “disrespectful” to the traditional leaders are either denied access to the graves to bury their loved ones or perform rituals and when they need a new residential site.

At the same time Traditional leaders are being neglected without salaries, infrastructure and resources to perform their duties. We saw more organised Traditional leaders march to the office of the Premier in Limpopo. It is because of the legacy of apartheid we still have some of our genuine traditional leaders who are not recognized by the Government, 30 years in the democratic dispensation.

As the people representing the views of several Limpopo residents on the matter, we submit that:

- 1) The proposed legislation must be renamed the Traditional Leadership Act in order to accommodate all the traditional leaders in the country. It is a well known fact that all traditional leaders are equal and therefore the law must not favour one traditional community over the other.
- 2) To ensure that the public and relevant people are consulted in relation to the enactment process of this bill, the parliament should conduct public hearings at the regional level of each province, especially in the rural areas. Communities that may be far from the earmarked venues should be provided with transport to and from the venue, and the draft

bill must have vernacular versions and be accessible before the actual hearings are convened.

- 3) Definitions must insert and define the Royal/ traditional Council (Bakgoma and Bakgomana) which means a custodian and recognised authority that takes decisions with the ruling family. This involves members of the royal family, ruling families and close relatives of the Ruling Family and other selected families in terms of customs and tradition of the community.
- 4) The Elections of the Traditional Council must be 60% from the community and 40% from the Royal Council. This would attempt to democratise the traditional councils and ensure that ordinary people's interests are accommodated.
- 5) Recognition and withdrawal of the traditional community should be done through adequate consultations with the traditional council and the entire community and therefore if agreed the resolutions must state the reasons for such. The withdrawal or demotion of a traditional leader should not automatically be the demise of a traditional community; the community must be given the opportunity to appoint a new leader. The government should play more of a mediatory role in the event of any dispute arising from the community to avoid a situation where the decision of a traditional leader or council is always perceived as final. So to protect the rights of the community
- 6) Recognition of branch must be canceled as Traditional community means community that live or occupy the land in questions there is no branch or recognition of the branch
- 7) Recognition or withdrawal of the traditional leader must be done in conjunction with the affected community through a written resolution stating reasons to do so.
- 8) When a woman is to be recognized as a traditional leader then we expect to see the government supporting and enabling this, instead of upholding patriarchy and old practices that discriminate against women.
- 9) In the event of large-scale investment projects initiation such as mining, agriculture related and infrastructure that would affect the community's interests, the investor and relevant government department must ensure that communities affected are adequately consulted and written consents solicited from each party affected. This means, not only traditional leaders' consent should be deemed enough. This will be in line with progressive legislations such as the Interim Protection of Informal Land Rights Act. Appointments of standing

committees in key operational areas within the king/queens and senior traditional leaders should be based on merits. i.e. finance, project steering committees, etc

- 10) Community members or individuals who do not want to fall under traditional leadership systems and practices must be permitted to run their affairs through the local municipalities or democratically elected local structures. This would ensure that traditional communities equally enjoy the same privilege and assertion of human rights as their urban counterparts.
- 11) No one should be deprived of the right to bury their loved ones due to any pending issues between the traditional leader/council and/or royal family and the bereaved family. If there are any issues, they must be dealt with separately within the parameters of the common law.
- 12) Provision of residential sites must be regulated. There must be a standard administration fee for allocation of residential and/or business sites. The monies must be deposited and administered by a democratically elected local structure that is accountable to the community with audited financial affairs.
- 13) The legislation must put in place disciplinary procedures for the traditional leaders especially on human rights violation and instigation of the same.

On Behalf of the Limpopo Community

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Signature:

A handwritten signature in black ink, appearing to be 'M. Mohale', written over a horizontal line.