

**MINISTRY**

**COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER 397**

**DATE OF PUBLICATION: 19 FEBRUARY 2021**

**397. Inkosi B N Luthuli (IFP) to ask the Minister of Cooperative Governance and Traditional Affairs:**

(1) Whether, with regard to section 211 of the Constitution of the Republic of South Africa, 1996, that recognises the institution, status and role of traditional leadership in the Republic, her department has put any measures in place to ensure that the existing legislative imperatives and powers are used to effectively and visibly increase the role of traditional leaders as is contemplated in Chapter 12 of the Constitution of the Republic of South Africa, 1996, particularly at local government level; if not, why not; if so, what are the relevant details;

(2) what are the details of the progress made with regard to the passing of the Traditional Courts Bill? NW403E

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**REPLY:**

1. Yes, the Department of Traditional Affairs, has put legislative measures in place to visibly increase the role of traditional leaders as contemplated in Chapter 12 of the 1996 Constitution of the Republic of South Africa through the enactment of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019) (TKLA) which will commence on 01 April 2021.

To visibly increase the role of traditional and khoi-san leaders as envisaged in Chapter 12 of the 1996 Constitution, particularly at local government level, schedule 3, section 7 of the TKLA empowers traditional and khoi-san leaders to meaningfully participate in the affairs of District, Metropolitan and Local Municipalities. In this regard, the traditional and khoi-san leaders elected to participate in municipal councils are empowered by the TKLA to among others:

1. Address municipal councils on any matter directly or indirectly affecting or traditional and khoi-san communities in their areas of jurisdiction of the relevant municipal council. Furthermore, these leaders should prepare reports on all matters affecting traditional and khoi-san communities discussed in the council meeting within three weeks of the municipal council meeting and submit to the Local House of Traditional and Khoi-San leaders and traditional councils. These two roles allocated to traditional leaders by the TKLA ensure that traditional and khoi-san communities are well informed about the municipal affairs and can also participate effectively in municipal affairs through traditional and khoi-san leadership;
2. Make recommendations and propose appropriate interventions in respect of service delivery within the areas of jurisdiction of the relevant traditional or khoi-san councils to ensure that service delivery needs of traditional and khoi-san communities are attended to and included in the municipal integrated development plans (IDPs);

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1. Facilitate the participation of the relevant traditional and khoi-san communities in the any affairs of the municipality that requires or allows for public participation, including the affairs of ward committees;
2. Participate in the development of policy and by-laws at municipal level;
3. Alert the municipality to any current or threatening hazard or calamity in their areas of jurisdiction which affects or may affect the municipal areas;
4. Support the municipality and ensure participation of traditional and khoi-san communities in the identification of the specific service delivery needs of their communities;
5. Support the relevant municipality in promoting integrated local economic development; and
6. Support the relevant municipality with the implementation of the Spatial Planning and Land Use Management Act, 2013.

Furthermore, the TKLA allocates a role to traditional leaders by empowering the institution of traditional leadership to enter into partnership and service level agreements for the benefit of their communities. In this regard, the institution of traditional leadership is empowered through section 24 of the TKLA to enter into partnerships with municipalities, government departments and any person, body or institution for socio-economic benefit of their communities.

1. The Traditional Courts Bill is a Bill that resides within the mandate of the Department of Justice and Constitutional Development. The Honourable member is advised to direct the question to the Department of Justice and Constitutional Development.