

Submission by Prisca Shabalala to the Rural Development and Land Reform Committee on Wednesday 21 July 2010 in respect of the Black Authorities Act Repeal Bill [B9-2010]

Introduction

My name is Prisca Shabalala. I am from Matiwanoskop in the Uthukele District in KwaZulu-Natal, near Ladysmith. I am under the Nkosi NB Shabalala. I am representing the Rural Women's Movement from KwaZulu-Natal. I am also the Chairperson of the Rural Women's Movement in KwaZulu-Natal. I support the repeal of the Black Authorities Act, but in this submission I want to bring to your attention some important problems that are still faced by our community and that will continue to face us after the Act is abolished.

Background of the community

The community land was bought in the early 1900s by a group of 120 men, who organised themselves into a syndicate, called the Matiwanoskop Management and Syndicate Committee. The syndicate then elected a Mr Mbekwa to be the leader of the whole Committee. The Title Deed for this land was only received by the Committee in 2007. After the death of Mr Mbekwa, his son Nhlanganiso started imposing himself as a Chief over the community, even though this was private land. The current traditional leader of the community belongs to the fourth generation of leadership flowing from this original imposition. The Chief is also a member of the KwaZulu-Natal provincial legislature, and before that he was a school principal.

Since the 1970s, the community has been living under the dread of forced removals. In the late 1970s we were officially dispossessed of the land and our title was taken away. Our land was registered under the name of the Republic of South Africa. In 1986, through the South African Council of Churches initiative, a German church outreach group of four people visited with the community and lived in the community for one month. During the visit, the Germans realised that they needed to assist the community to get back the title deed that had been taken away by the Republic of South Africa. The Germans invited three men and one woman, who were representatives from the community, to spend three weeks with them in Germany, to understand the community's problem with dispossession and to assist the community.

After many battles with the government and the Department of Land Affairs, the community finally received its Title Deed in 2007, with the help of the Rural Women's Movement. During all the time that we struggled to get our Title Deed back, the so-called Chief did not play any part and did not assist the community with the struggle.

The community at present

Matiwanoskop is located 35km away from Ladysmith, which is where the people go to do their business. The cost of travelling to Ladysmith from the community and back is about R40 a day. The population of the area/ community is about 72 000. The population was not always so big; it has exploded because the Chief has brought in people who are not part of the community, to pay for the use of sites. 60 percent of the community consists of women. The community is made up of 11 wards ('izigodi'). Most of the wards are administered by the headmen and the Chief's police. We have four primary schools in the area and three secondary schools. We only have one clinic for the entire community. The hospital is about 50km away from the community and most people have to access their medicines from the hospital because they are not available at the clinic. Most of the people are employed in Ladysmith in the textile factories - about 70 percent of the community, of which about 40 percent are women. The wages that people earn there in the textile industry are about R110 per week.

Life under the current Chief

The Chief unilaterally controls community resources and access to land. In most instances, where there are projects that the community has initiated without him, for example the sewing machines project, the Chief tries to frustrate the projects and threatens to take away the resources that are needed for the project. This is because he feels like he has no control over the project and the money involved. Some of the project resources that the Chief wanted to confiscate, initiated by the rural women of the community, were donated by the self-help programmes of the American Consulate.

Service delivery and community facilities

There is no tarred road in the community. Access to water is limited to only 11 boreholes in the entire community of 72 000 people, and there is a problem when these boreholes collapse or need repair. The boreholes were implemented by a private company, upon the initiative of the development community, not the Chief. Sanitation services do not exist at all in the community. There are no recreational facilities for the young people – no proper soccer fields or community parks. As a result, young people spend their time at the taverns.

There is no youth development in the community. Instead of helping the community, the Chief is blocking development and doing nothing to improve the lives of people in the community. Access to general community facilities, like the hall, is wholly controlled by the headmen, who allow access depending on the political affiliation of the community members. If the headmen are Party A and a family wanting to use the facilities is Party B, the family is not allowed to do so, or their use is frustrated.

Traditional Courts

In 2001, the Chief appointed 19 people as the traditional authority to run the Traditional Court, on the basis that he had dreamt about that particular composition. Of the 19 people appointed, only 6 of them are women. The Chief has continued with the procedure of appointing such a traditional authority, and has not appointed a Traditional Council in terms of the new law. The conduct at the Court is that if you are a woman, you may not represent yourself in the Court or witness box - a man must represent you. As a community, we feel that this is against our human rights and the Constitution, that have fought so hard for and for which our ancestors died. In the case of a widow, she is not even allowed to enter the premises of the Court, because it is believed she will bring bad spirits to the Court. Justice in the Traditional Court is dependent on you who are, your resources and your status in the community. If you have a lot of resources and are known, you can buy the people in charge a bottle of expensive alcohol or pay them money and your case can be thrown out.

Some of the penalties that are meted out in the Court:

- Where there is a dispute between a woman and a man about who the father of a child is, the Court will order a blood test to be done and the father's family must pay a fine of one cow or R1000. The fine is not paid to the Syndicate who owns the land or the woman's family, it is paid to the Chief.
- Where there is a case of trespassing animals, there will be a fine of one cow or bull, to be paid to the Chief. In other instances, the trespassing animals may be pounded by the owner of the field where the animals trespassed. Then the owner will charge a fee for the release of the animals. Sometimes the Chief will come to Court and say the fee is too high and decide that a total fine must be paid, of say R1000. The problem is that the Chief does not know what damage is done by the animals to the field – he is not an expert of this.

Conclusion: The way forward

As a community, we ask the Committees in Parliament to work together to:

1. Disband the current traditional authority and Court, because it was not legally formed and not appointed according to custom. The people in the traditional authority were not democratically elected, they were just dreamt up as members by the Chief.
2. Have the position of the so-called Chief Shabalala and his authenticity as the Chief of this community investigated by the government.
3. See a situation in Matiwaneskop whereby the rights of women are respected and recognised by all in the community, including the Chief.
4. Create a structure that gives government support to caregivers in the community, improves access to water and sanitation, provides recreational facilities and creates job opportunities.

Finally, we ask to see the KwaZulu-Natal Bill on the Code of Local Government Law that is mentioned in the Black Authorities Act Repeal Bill, because we have not seen it yet and do not understand what it aims to do.