

Enq. Mr. B J Modipane  
Tel: 0 7  
Date: 26/07/2010  
Ref: 3/3/1

**Constitutional Review Committee**

Att: Ms Pat Jayiya

Sir/madam

**RE: SUBMISSION ON THE CONSTITUTION ANNUAL REVIEW  
PRESENTATION BY MPHTL AND NHTL**

**Introduction**

The two Houses of Traditional Leaders presented before the committee on Friday, 23 July 2010 on Constitutional Annual Review

**Discussion**

The Mpumalanga Provincial House of Traditional Leaders has deliberated on its presentation before the committee on Friday, 23 July 2010. We, therefore, wish to clarify the aspects of our presentation as follows:

1. We support the contention by National House of Traditional Leaders that the Constitution should be amended to guarantee protection to the institution of traditional Leadership. Section 212(1) should be amended to read as follows:

“National legislation [may] shall provide for a role for traditional leadership as an institution [at local level] on matters affecting [local] traditional communities”.

2. Section 212(2)(a) should be amended to read as follows:

“national or provincial legislation [may] shall provide for the establishment of houses of traditional leaders”

- Recognition of traditional leadership must include all layers of traditional leadership.
- Intergovernmental relation must be amended to include the institution of Traditional Leadership, the IGR.
- In terms of chapter 7 subsection (6) governments must disestablish Local Municipalities replaced by Traditional Councils as service providers within traditional communities, as in time of immemorial.
- Chapter 8 section 166 Traditional Courts should be listed as one of the recognized courts.
- Chapter 9 s190 (1)(a) Electoral Commission and Traditional council must manage election in traditional communities.
- The status of the House must be defined whether public entity of be part of Parliament.
- The House of Traditional Leaders must be a chapter 9 institution.
- Chapter 2 should exclude sexual orientation..
- The House Financial management of the House of Traditional Leaders must be regulated by the Parliament Financial Management Act.

We hope the above is in order

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Ikosi SE Mahlangu  
 Chairperson Mpumalanga Provincial House  
 of Traditional Leaders

Eng. Mr B.J Modipane  
Tel: 0  
Date: 18/08/2009  
Ref: 3/3/1

**Constitutional Review Committee**

Att: Ms Pat Jayiya

Sir/madam

**SUBMISSION ON THE CONSTITUTION ANNUAL REVIEW**

**Introduction**

Mpumalanga House of Traditional Leaders is an institution established in terms of Mpumalanga Provincial House and Local Houses of Traditional Leaders Act no 3 of 2005. Its main aim is to advise the Premier on matters affecting traditional leadership within the Province and serve as a coordinating office for the affairs of the Traditional Leaders.

2. We wish to make the following submissions to the Constitutional of Review Portfolio Committee.

- In terms of chapter 12 of the Constitution on Traditional Leaders, we submit that the roles , functions and status of Traditional councils must be enshrined in the constitution and
- The empowerment of the House definition of the House, the role and the type of entity.

3. Section 212(2)(b) should be amended to read as follows:

“national or provincial legislation [may] shall establish a council of traditional leaders.”

4. Section 212 should be amended with the insertion of paragraph (c) after paragraph (b) to read as follows:

“the institution of traditional leadership is hereby protected and guaranteed”

5. We request that the Committee should approve additions of the sections into the constitution which will cover the following aspects:

5.1. Powers of the Institutions of Traditional Leadership;

5.2. Protocol of Traditional Leaders;

5.3. Roles and Functions of the Institutions of Traditional Leadership

5.4. Status of the Institution of Traditional Leaders and Traditional Leaders;

5.5. Budget and Financial Regulation of the Houses of Traditional Leaders;

5.6. Role of the Institutions of Traditional Leadership in the legislative process; and

5.7. Relationship between Institutions of Government and Traditional Leadership.

### **Conclusion**

Our submission is that section 39 of the Constitution allows the country to use precedents from outside the country. Our contention is that the constitution of Ghana should guide us on the issue of traditional leadership hence we request that the same clauses be inserted in our constitution as addition to inputs raised above. Other countries such as Uganda, Kenya, DRC, Namibia, Nigeria, Tanzania, etc. as a bench mark on how the institutions are recognized.

The Constitution should provide the mandate of the Institution of Traditional Leaders as it does with Parliament and Provincial Legislatures. The role of House of Traditional Leaders should not only be about customs and customary law but extended to deal with all matters affecting traditional communities. This includes the referral of bills to the Houses of Traditional Leaders for inputs. The issue of mandate further complicates the issue of funding and budgeting for the Houses. We are given minimal funding as a result.