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Manyeleti Community Land Claim

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31 January 2012

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The Speaker of Mpumalanga Legislature

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Re: Submission on the Traditional Courts Bill by Manveleti Community Land Claimants.

1. We are beneficiaries of a Restitution land claim and residents within the jurisdiction of chief Mnisi and the Mnisi Traditional Authority. Chief Mnisi, however is not a beneficiary to the claimed land. The beneficiaries include people of Welverdied; Godenburg A,B and C; Thorndale, Seville A, B and C; Iglinton A and B Utha and Dicksy. These communities have been forcefully removed from land that was turned into Manyeleti game reserve in 1963 by the Apartheid government and forced us into the jurisdiction of chief Mnisi and his traditional authority. Before forceful removal we stayed in our ancestral land long time ago and we had no traditional leadership or authority there. After forceful removal it's

when we started being under Chief Mnisi. During the removal process we lost our land rights and our belongings. In 1998 we launched a restitution land claim as a group of people. Chief Mnisi also launched a claim on the same land on behalf of his royal family in 1996, which was later dismissed by the land claims commission; with the reason that his family never stayed in Manyeleti as a traditional authority. It was *prima facie* that the individuals stayed in the claimed land and not chief. During the course of claiming the land, the traditional authority also came in the name of assisting the communities to claim their land but along the way after the land was gazette in 2002, the claim was hijacked by the traditional authority called Mnisi community land claim. Whereby they formed a different stakeholder to represent the claimants in the name of Thunderstrike Holding Company, behind the claimants' back, whereby the Commissioner of Limpopo Mashile Mkonzo rejected that, with the reason that under the Restitution Act they only work with the CPA's or the Trust and according to the holding company document all the benefits were going to the shareholder of the company and all the claimants were to get nothing. They announced that when the CPA or Trust is formed it was supposed to be facilitated by the office of the Commissioner and that the said CPA or Trust committee was to be elected by the people democratically, where the Commissioners' office was to facilitate the process. While we were still waiting for Commissioner's officials to come, we were surprised that Chief Mnisi and tribal council had already formed a trust called Manyeleti Conservation Trust secretly. The formed trust had the Chief as a founder and Chairperson of the Trust and his traditional council occupied executive position of the trust. The way we found out was from the Noseweek (newspaper article) whereby a developer of the Thunderstrike Holding Company and the Trust were in loggerheads about the agreements

they entered into in the High Court of Pretoria, without the knowledge of the claimants. We had to fight nail and toes to get the claim back to the land claimants from the traditional leadership where we had to involve the lawyers like the Legal Resource Center and Weber Wentzel who are still legally representing the claimants. Currently we are in a process of conducting an AGM to elect the new legitimate structure which is the CPA to take the finalization of the claim.

2. The Traditional Courts Bill is relevant to us because it contains a clause that says a king, queen or senior traditional leader upon whom jurisdiction was conferred under any provision similar or corresponding to section 12(1) or 20(1) of the Black Administration Act, in any affected law in force in any affected area, to deal with certain civil and criminal disputes, and which has not been revoked under any similar or corresponding provision to section 12(2) or 20(4) of the Black Administration Act in any affected law in any affected area, shall when the laws contemplated in subsection (1)(b)(iii) to (ix) are repealed as contemplated in subsection 2(b) or when this Act become applicable in an affected area as contemplated in subsection 2(c), be deemed to have been designated by the Minister under section 4 of this Act as a presiding officer of the traditional court in respect of the area over which such traditional leader has jurisdiction, subject to that traditional leader. This clause has implications for our land that we have claimed to be included under the jurisdiction of a chief who has not lost any right in land and not a beneficiary to the land that is to be restored to us. All this takes us back to what we were fighting for under Apartheid government, so let the claimed land remain and belong to the land claimants and beneficiaries and the traditional leader must remain in power only to the land that was demarcated his jurisdiction. We want this bill to be scraped and/or re drafted to exclude land that would be owned privately under Trust or CPA.

3. The problems that we are experiencing under the chief's leadership includes people threatened of their land rights whereby chiefs say the land belongs to them and that people in such land are just subjects. According to the trust deed of the Manyeleti Conservation Trust, which was drafted by the traditional leadership, it says the trustees have the rights to sell and demolish the property without consultation of the claimants and that therefore takes power away from the people and hands it to traditional leaders. The trust entered into agreements and interparty agreements with Ntintswalo Safari Lodge developers behind the backs of the claimants, our claimed land was sold for R7million rands without the knowledge of the claimants by the Trust. Till today we don't know where that money went. All these indicates how the Bill will affect us if it gives the traditional leadership more and unilateral powers.
4. Our experience with the manner in which traditional courts are run by chiefs and their councils is that deal with people and their status in society as opposed to the issue at hand. The TCB and sections that make the chief presiding officer in these courts would prejudice people like us who are not in good terms with the chief. Chief also has a tendency of giving the same plot of land to various people, collecting money ending up causing conflicts between people and leaving without no other remedy to relay their grievances. The chiefs thus cause chaos and the Bill says they are the ones who are supposed to settle chaotic matters to begin with. To us this is a contradiction. These powers violate our Bill of Rights, our right to own land and our right to a fair trial and justice system. The TCB is therefore in violation of our Constitutional right which we fought to have in 1994. In addition traditional authorities abuse power by taking land that

is viable for tourism and claiming it as their own, thus forcefully evicting people who were in that land and we don't know where they dump them.

5. A proper consultation process with rural people should begin and a new legislation drafted from that. Certain clauses that incorporate the BAA and Section 12 of TLGFA of 2003 should be scrapped. There could also be a power sharing between the communities and the traditional leaders and the royal council. The chiefs should first and foremost not have powers to sell, distribute and use land without the knowledge of the community. There should be a monitoring process for Chiefs done by the House of Traditional Leaders and other relevant departments of government, to make sure that Chiefs follow the rules and regulations in the New Bill.
6. Since 2011 December 15 when this Bill was presented to the parliament, it was recommended that it has to be referred to the NCOP who will ensure that public participation particularly by the rural people who are affected by the Bill must be complied with, the selection committee that is responsible for this bill has not yet started communicating this to the people who are affected to hear their inputs and recommendations. Now it is the 30 January 2012 and the due date is the 15 February 2012. We only found out about the Bill from the NGOs.
7. It is because the Bill is going to affect our lives on a daily basis and also it is important for the people to participate in everything that will affect them directly. It is a democratic principle that we fought for. Additionally people must be given sufficient notices of at least four months for such a sensitive issue. Consultation should take place in a neutral venue where everybody will have access and when transport is needed the government

should provide it, like any other departments (for workshops). In our area you could provide big tents for workshops.

8. The bill will marginalize our communities. It also brings back the Bantustan days that with ethnic and racially based. White land owners who are our neighbors enjoy privileges of democracy and no chiefs are imposed on them. It also contradicts the constitution and the freedom charter which states that the people shall govern. It also contradicts the Constitution which says there are a freedom of choice and a freedom of speech. In addition, people are being threatened by the law enforcement instead of being given a platform to speak for themselves. Indirectly the government is promoting the culture of striking on the street because of all of these surprises.
9. The government must not enjoy the fruits and forget the soil where the trees that bears the fruits are standing on.



ANDRIES SIHLANGU (CHAIRPERSON; MANYELETI LAND CLAIM
COMMITTEE)

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