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15 February 2012

The National Council of Provinces

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SUBJECT: SUBMISSION ON THE TRADITIONAL COURT BILL OF 2008

Introduction

I am Solomon Japhta Mabuza; I come from Buffelspruit village under Nkomazi local municipality in Mpumalanga Province.

I am happy to write to you as N.C.O.P about T.C.B. I was in parliament before; this was in July 2010 when the B.A.A was being repealed. Back then I called for government to consult rural people when it passes laws and I invited parliament to my community and still waiting for them to come to us. I write this to you to repeat these calls. I am also here to express how unhappy my community is and my co-operative about the TCB.

We heard about the TCB back in July 2010 and we thought government would come to us and talk about it. Bu we were surprised to hear that government put a notice calling

for commission during December holidays how can that be? How can the government put a notice in December?

We write to you as small farmers who are abused by the tribal authority. The TCB gives the same tribal authority judicial powers to hear cases, how will our tribal authority be fair when it hear our cases. The cases that we have is against the Tribal authority.

We need tribal authority back to the communities to discuss about the customary law of the communities and which will be known by the whole people in rural areas. We also need to be a part (involved) during the making of laws when they wrote their traditional court bill they did not consult rural people but at the end of the day they want to use it to the people. The system that they are using on ruling (leading) us its taking us back to the past orders bantu stand days where the law was undemocratically. We also like to remind our traditional leaders that South Africa is free and is democratic country, it is not the country only which its free even the people who living in it they are free, so we are requesting our traditional leaders to be part of the South African leaders. South African leadership also respects the bill of rights, equal rights and the transparency which is in our South African constitution.

We were trusting that the present government would bring changes to the traditional leadership system, so now it is difficult than before, no one is monitoring, observing and evaluating their powers they just abuse the people as they want.

Summary of the problem

There are so many problems in our area that are caused by the tribal authority but here will be focusing on the four problems

1. Our tribal authority is standing in the way of community development

2. The tribal authority is selling communal land that it does not own
3. Tribal authority is charging Levies but not providing service for the people
4. Using foreign people to be the chiefs in Matsamo Tribal Authority

Problems in details

Firstly, the co-operative that I represent here SILWANENDLALA UBUNTU FARMERS AGRICULTURAL CO-OPERATIVE PTY LTD, has been blocked at a number of point from fulfilling its developmental purposes. We established this co-operative to fight against problem of hunger in our community. The co-operative has started by the number of people who had been retrenched from work and were desperate for a way to survive.

2010 Our co-operative made a relationship with the Mpumalanga agricultural skill development training (MASDT), they train us the management, administration and maintaining of farm. They also deployed a mentor to train us properly agricultural work. The Matsamo tribal authority sent their senior tribal council Mr. Amos Magagula come with the attorney to stop the mentor to continue with assisting our co-op.

They also stopped Mr. Moses Shongwe the senior Agricultural officer of the KaMasimini Agricultural extension office of Nkomazi to provide us with an agricultural services. We requested the Agricultural Department to renovate our water dam, our request was accepted. They also prepared the machine for doing the job. The tribal authority also stopped them, so how can we be happy about the tribal authorities and their court bill.

In 2011 we made a partnership with Mpumalanga Agricultural Skill Development Training (MASDT) and the British and American Tobacco (BAT) for producing tobacco and we were supposed to employ 250 permanent workers, but due to the distubant of the tribal Authority we only employed 14 workers

A member of our community was caught in a banana farm (Van Rose Farm) stealing banana, because he was starving; he was then assaulted until he died. I Mr. Solomon J. Mabuza I said to other community members that was not good and we should start a co-operative so that we could produce our own food rather than stealing from the commercial farmers we forwarded our request for land for agricultural purposes to the community mass meeting which was facilitated by the area headman the late Mr. Philemon Mhlongo and his secretary Mr. Amos M. Magagula.

There was no objection from the community, but the tribal councillors disagreed we tried several times to put our request to the meeting we end up went to Matsamo Tribal Authority. The tribal authority delegated their two councillors to go with us to see the land that we were willing to occupy, we arrive there and saw the place, and they said they don't see any problem with the site.

We went back to the Matsamo tribal offices they gave a report back to the chief's cabinet they also sent us back to local tribal council to inform them that the tribal authority doesn't have any objection in our request. So the local tribal councillors are requested to call community meeting, if the community should not object our request, the area headman and his councillors can write us a community resolution which will be a prove that we have been allowed by the community to occupy that particular land that the community resolution meeting was held on the 7th of May 1995 the copy of the community resolution meeting is attached in this submission.

In 1999 November we were surprised when we saw tribal authority councillors sent some of the community members to go and cut off the fence wire of our farming field. We were planted maize and it was nearly full-grown, they grazed their cattles in our maize field.

So to us as rural communities it will be very much difficult to allow the tribal authority and their traditional court bill. In Nkomazi area there are lot of Job opportunities that

can uplift the economy of our province as well as the country as a whole but due to the disturbance of the tribal authority nothing is happening.

Ownership of land

We heard about the south African land reform programme we were trusting that we will be accommodated to the land tenure rights act no 112 of 1999 but we still left behind then the tribal authorities get an opportunity for abusing us.

The Matsamo Tribal Authority consist of 12 villages. These villages are as follows:

1. Buffelspruit
2. Schoemansdal
3. Jappes Rief
4. Driekoppies
5. Middleplaas
6. Schoezendal
7. Langelooop
8. KaMdladla (Flagbalt)
9. Phiva
10. Mzinti
11. Ntunda
12. Sikwahlane

All the people who resided in the above mention villages are force to pay money that is called khonza fee to the tribal authority. The khonza fee is paid by the people prior to the allocation of sites. People are also force to pay Incagane (tribal levy). Incagane is the money that was requested by the Shongwe Royal Kraal after the dead of the late Chief Magubha Shongwe in 1949. Communities were requested to pay 25 (cent) per house once a year. The Shongwe Royal family used that money to pay school fees

For the new (coming) chief Mr. Amos Tihlonhla Shongwe, people agreed to pay that money because the chiefs were not getting salaries from the government. The Shongwe royal family sent their son chief A.T Shongwe to Barberton to get schooling. He completed his JC in 1962 he was also came back home and thanks the communities for their contributions that they have done for sending him to school so they can stop to pay that money.

People they also donated R15.00 per house for building his house, he also thanks to the people for their second contribution chief A.T Shongwe passed away in 1981 but the group of people who have the same surname as the actual chief and who is running the tribal office still want people to pay that incagane (tribal levy) and now it has increased from 25c to R50.00. So if the traditional court bill can be passed it will be very much difficult for the communities to raise their complaints if there is something wrong that is happening.

The right chief of the Matsamo Tribal Authority is Mr. Norman Matsafeni Shongwe but the group which is running the tribal office by force they chase out the actual chief to the office and the Shongwe royal kraal took the matter to the former Mpumalanga Premier Mathews Phosa.

He promised to solved the problem, he also told them that he knows very well about the Shongwe tribe, he was also a lawyer of the late chief Amos T. Shongwe, the father of Mr. Norman Shongwe but term of office for the former premier Phosa ended before he do so. After that the operating group used the foreigners people to be the chief because they don't want to be accountable when the people raised concerns.

We the rural communities we are requesting the government to assist us to the issue of land ownership.

Land ownership

We have been very happy when the government come with the land reform programme, we believed that we will be accommodated, we the rural communities we were falling under category 3 which is the up grading of land tenure right act of 1991 act no 112 of 1999.

We were very surprised to see ourselves left behind in the South African land reform programme we are still abused by the tribal authorities especially on the land ownership we are still using P.T.O and R.T.O per unit this type of permits it's got no value it is like a permit that you can use in the caravan park.

Now we are tired and is enough, we want title deeds permits in the rural areas. We are requesting government to provide us with the title deeds to the piece of land that we are occupying e.g. residing or business sites

We don't want to make wars and lose control because of the abuse that is causing by the tribal authority who doesn't want to support the constitution of our democratic country, and to respect the rights of the South African people as the constitution says.

If I can say that the Matsamo Tribal Authority is standing on the way of community development, let me make an example with the Matsamo Plaza, that the plaza was planned by the community of Buffelspruit in order to create jobs for the local people who were not working.

We took our plan and gave it to the local municipality (Nkomazi) in order to assist us to get developers that can build the above mention shopping complex. The Nkomazi local municipality has done that. They came with the developer Mr. John Mc Comic. On the 26th of November 2000 we had a mass meeting with the developer Mr. Mc Comic for signing community resolution.

We requested Mr. McComic to build us a shopping complex which we were already given the name of Mlumati Garden. The Matsamo Tribal Authority came after we planned everything where Mr. Mc Comic promised our community to compensate them with sum of R450 000 this amount were supposed to go to the trust fund of the Buffelspruit community.

The Matsamo Tribal Authority forced the developer to pay that money to their office. Mr. Mc Comic said that money is going to the trust fund of the Buffelspruit community, and then the tribal authority says, because the developer is refusing to bring that money to their offices that the community resolution will be given to another developer that will be able to bring money to their offices.

So Mr. Mc Comic has been failed to build the shopping complex. Some of the community members occupied that site which was supposed to be a business site. Mr. Mc Comic removed them and compensates them with money for building their new houses. He also contributed with cleaning the site where their homes should be.

But the Matsamo Tribal Authority end up refused to give him an authority for building a shopping complex that chance was given to another developer who agreed to take the community compensation and pay it to tribal offices followed by the BUSCOR Property limited it was requested by the community of Buffelspruit to build a bus depot the tribal authority also took the compensation of the community by force.

The Eskom also made community resolution with the community of Buffelspruit for building their sub-station the tribal authority also took the compensation which was supposed to received by the local co-operative called Buhle Buyeza because that site was granted to them to do their agricultural business, industries etc

Land claims

People of Nkomazi again claimed the land of Tenbosch, farm N0162 JU this farm is situated in Komatipoort it goes until to Hectorspruit the claim passed some years ago the land was claimed by the people who has being removed by the government of the National party in 1954 the claimed members were led by Mr. Mawelela as a chairperson of the claimed but due to the disturbance of the tribal authorities no one has received the land and compensation and then the chief interfere to the claim of the people.

Conclusion

We would like to invite the members of National Council of Provinces to come in our area and see all the problems we mentioned above. We also request the National Council of Province to render leadership classes about the customary law of the communities to the chiefs and their councillors. We also suggest that all the laws that will be used by the traditional leaders, should be established by the member of the communities concern. We know our culture and we love it, but it shouldn't be abused.

I thank you by S J Mabuza

