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4 September 2012

Select Committee on Security and Constitutional Development  
 Mr. G Dixon  
 3<sup>rd</sup> Floor  
 90 Plein Street  
 Cape Town  
 8001

**BY EMAIL**

[gdixon@parliament.gov.za](mailto:gdixon@parliament.gov.za)

Dear Sir

**SUBMISSION ON THE TRADITIONAL COURTS BILL [B1-2012] ("the TC Bill")**

We, as Peotona Group Holdings (Pty) Ltd ("Peotona") and individually as women in South Africa, have noted the issuance of the TC Bill by the Honourable Minister of Justice and Constitutional Development Jeff Radebe and we hereby with common cause submit our comments in the following manner:

1. We believe that our nation of South Africa has a unique, outstanding and equitable Constitution that is the supreme law and cornerstone of democracy for South Africa and it governs our country and its citizens fairly and with justice, ensuring equality for all and the protection of human rights.
2. It would therefore be unjust and unconstitutional to place more power and authority in the hands of a few (particularly chiefs in rural communities) who are already seen as 'rulers' in the rural areas by their communities that could potentially lead to exclusion of the community/council objectives; fear; intimidation and gross violation of human rights.
3. In respect of the safeguarding of human rights and national democracy, we do not believe that the TC Bill adequately protects women in the traditional courts system and it could adversely discriminate against women's rights in rural communities leaving them vulnerable and undermined.



4. Section 9(3)(a) of the TC Bill provides that no party before a traditional court may be represented by a legal representative. This is unconstitutional and violates sections 35 (f) and (g) of the Constitution, because even those accused of criminal acts deserve constitutional protection and have recognition as innocent until proven (legally) guilty.
5. People living in rural communities may not have the right of (holistic) access to courts that is constitutionally protected i.e. whether to have their cases to be decided according to civil or customary law.
6. We have sadly noted international examples of archaic injustice in various societies and rural communities in some countries in Asia, Africa, Europe and the Middle East, with or without democracy, even in war torn areas, whereby traditional courts/leaders disenfranchise women; force teenage women into arranged marriages with old men; adult women are made to be subservient with no voice/representation/protection of their basic human rights...
7. In addition to its various unconstitutional aspects, the TC Bill can lead to potential problems of economic exploitation, gender bias and isolation etc which can cause irreparable harm and loss to people living in rural areas, particularly women. Our own country has suffered enough in the past in respect of the exploitation of fundamental human rights by an elitist minority and we cannot allow it to happen again.

We hereby support the call of "one law for one nation in a united state" and we thus reject the TC Bill in its entirety!

We trust that you find this in order.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'Cheryl Carolus', is written in black ink.

Cheryl Carolus  
Executive Chairperson