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SUB-MISSION ON TRADITIONAL COURTS BILL (BI-2012)

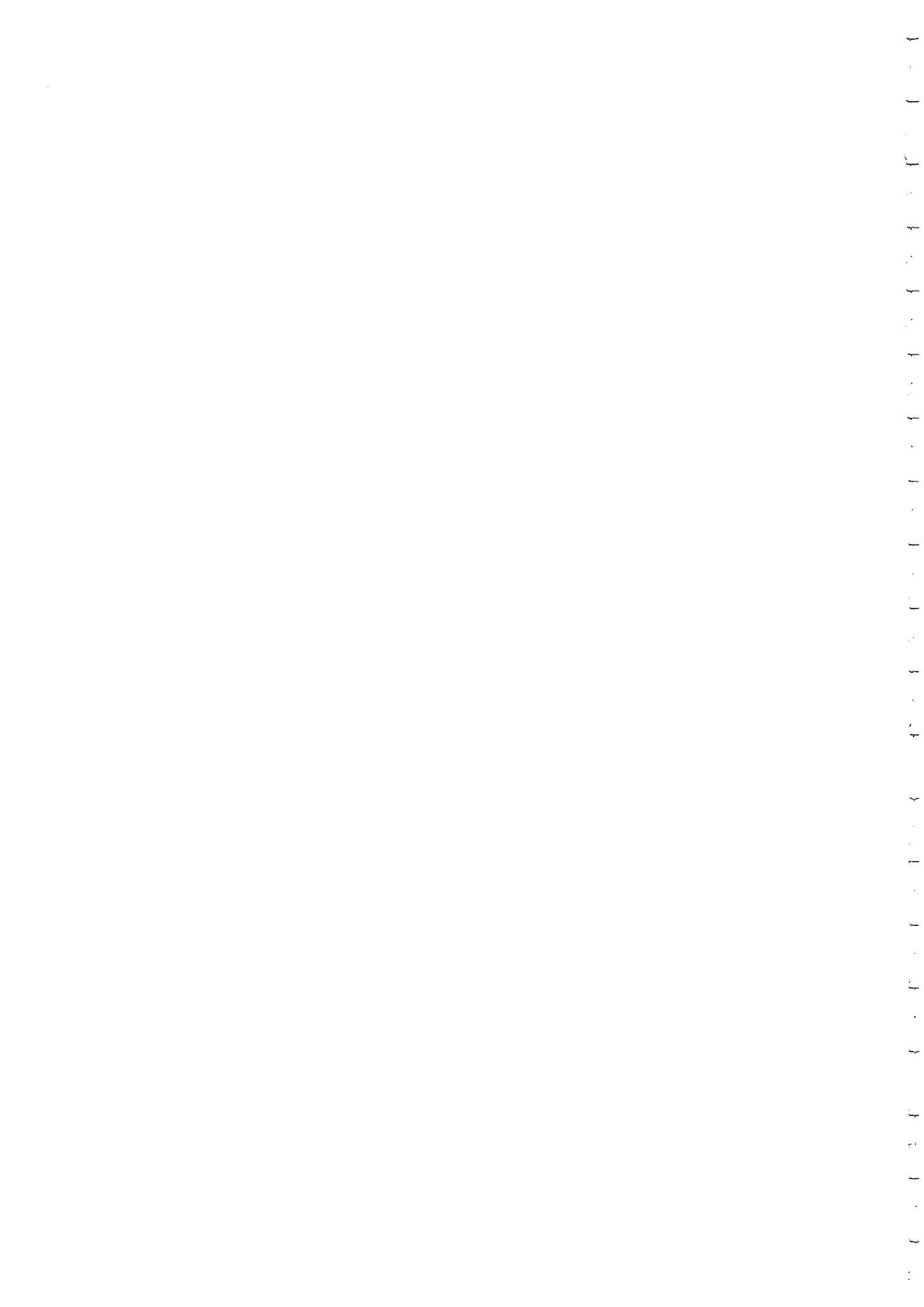
Dear Sir

Traditions and cultures should be placed correctly and broughtly interpreted and be careful that the constitution of S.A is not violated and make room that when development comes there should be an ample chance to consult with heads of families and the traditional leader to make amendments if necessary.

These traditions and cultures should also be structured in a way that when development comes they should give room for discussion with heads of families and traditional leader to make amendments where possible changes where necessary.

We should do so keeping in mind that even in cultures there are cultural transgressors of the culture. Cultural transgressors are not cultures. The cultural transgressors are also reprimanded according to culture; justice is still a norm which is guiding among traditions and cultures. These cultures and traditions have to be followed and respected.

We should never overlook the role which is played by heads of the families. Even the roles been played by individual head of the family as a custodian of that family culture.



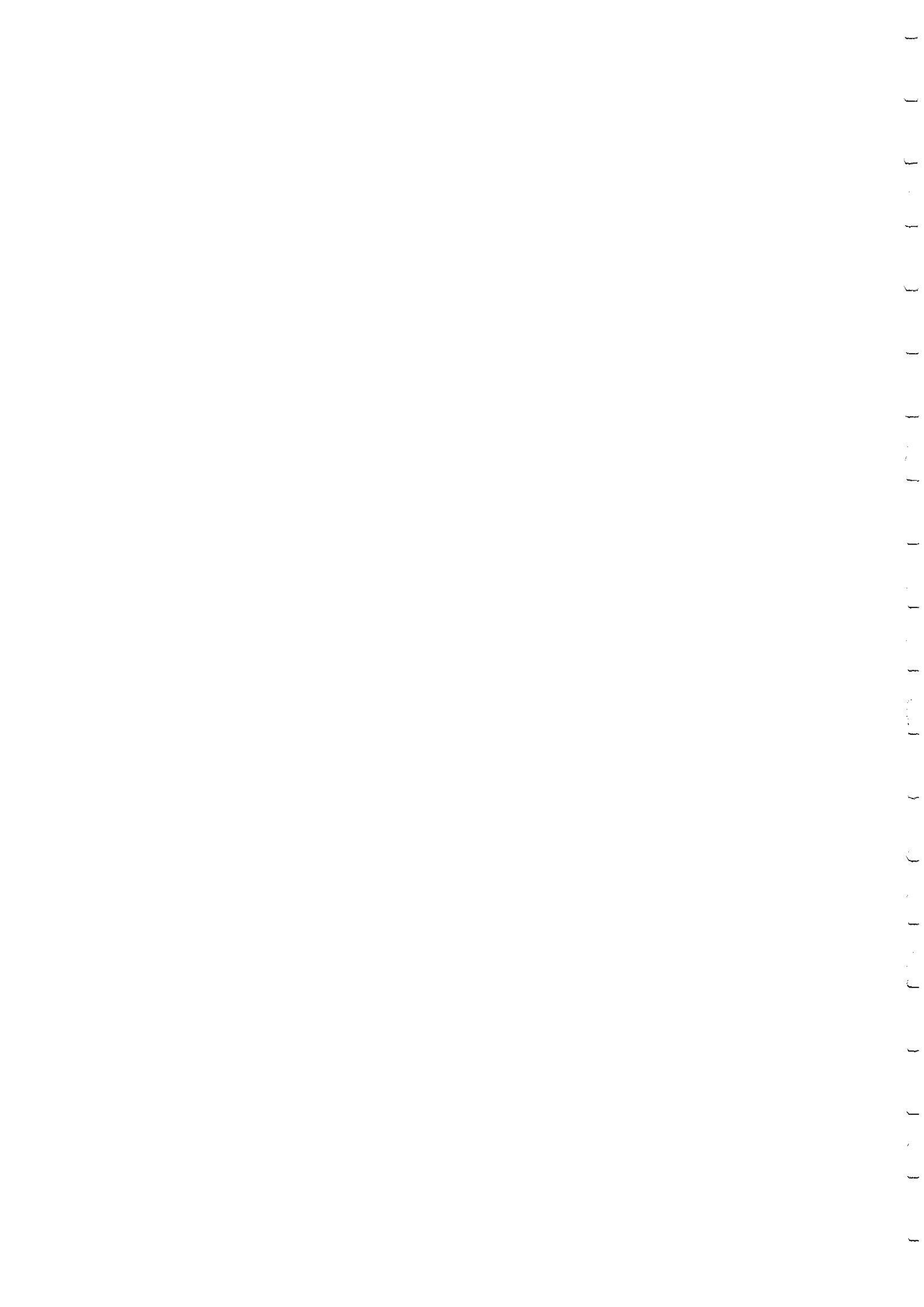
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There is guidance which is brought by families in front of the families and extended to the traditional leader to be the custodian and should be done so that the public should follow it as its guidance as a general decision made by the public.

It is not possible that different families could make a common tradition and custom. No one can reject his tradition and adopt the tradition of the other. Even if they can idolize one tradition they still differ here and there.

These discussions are known and are very open to the public as (A) tradition (B) customs, we should be realistic about the role played by heads of families and the traditional leader. Because heads of families and the traditional leaders are responsible for peace and order in the nation. Each head of the family has a critical role to play.

From: Mr Mahase Peter Mahase.



To: The NCOP

Re: Traditional Courts Bill

From: **Vulamasango Singene Mnyama District**
(where there are elected organisation representatives in 130 villages)

Care of: Thobeka Mayekiso (Ph: 0724312197)
Tyekana AA
eMantonzeleni
Ngqamakwe

Date: 15 February 2012

Amalungelo omama ezilalini phantsi kolawulo lwenkosi

Nanjengoko umthetho wapasiswayo ePalamente usithi makulinganwe (50/50) kodwa thina asikalifumani ncam elo lungelo ingakumbi apha ezilalininajengoko siphantsi kolawulo lwenkosi

Yinto ebangela sith thina singomama asikaththi nxaxheba

1.Ebhungeni

Xa ujonga iinkosi ezisimelaye phaya komasikala ufumanisa kungekho namnye umama.

2.Ezinqileni

Xa ujonga ufika ingotata abaninzi okanye ufike kungekho nomnye umama ngaphandle komabhalana.kethina e Ngqamakwe bakhona oomama abane nabo bangena ngokuthi kubhubhe amadoda bao ze babambele bantwana babo. Xa ujongile ithi lento xa umntwana emdala uzakuyithatha ayokongenza kwanye ootata. Lilonke oomama abasimilanga phaya.

Ithi le Bill oomama mabamelwe kumatyala achaphazela bona. Oku kuku qinisa ucinezelo kwisini esingumama, akanelungelo lokuzithethela(freedom of speech). Oku akukho tu emthethweni, kuba unelungelo lokumelwa okanye uzithethele.

3.Ezilalini

Ufika inkosi ingutata namahlakani ayo ngotata nezibonda zayo uninzi ngotata.

Zontathu ke ezingongoma zingentla zibonakala zizakukhuthazwa yi le Bill yenkundla zazsekhaya. Amalungelo oomama asezakuhlukunyezwa ngolunya ezilalini.

Xa ufuna inxiwa namhlanje uyinkazane awukwazi ukulifumana, lentetho ke ithi ibonies ukuba le Bill mayiwakuthaze amalingelo omama kwizinkundla nendima yabo ibe yebonakalayo.

Izinto ke ezifuna ukuqwalaselwa ngamandla:

1. Azikho izakhono kwinkosi nasentwenina
2. Abazazi nokuba inkonzo nje zifumaneka njani n: lento ke yona sisbeka kuba ngelinye ixesha lomoni kufuneka ancedwe ngo nontlalontle, special experts phambi kokuba avele enkundleni. Angabethwa ke phaya komkhulu.

Okokugqibela:

Kunyanzelekile ukuba abantu balapha ezilalini banikwe ithuba elililo lokuzithethela nabenzi mithetho, le Bill zange kubekho igqubo eza kuthi bantu nje Green paper process apha sinikwa khona injo, kona ukze nibe nomthetho. Singabantu balapha sithi yizani kuthi nalomthetho kwiward zethu.

**DEMOCRATIC LEFT FRONT**

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National Steering Committee
Brian Ashley, Mazibuko K. Jara, Ayanda Kota, Martin Legassick & Vishwas Satgar

15 February 2012

TO : Honourable Mninwa Mahlangu
The Chairperson of the National Council of Provinces
cc NCOP Select Committee on the Traditional Courts Bill (TCB)
PER FAX 021 403-8219
021 461 9460
086 658 9371
PER EMAIL gdixon@parliament.gov.za

Dear Sir

PRELIMINARY SUBMISSION ON THE TRADITIONAL COURTS BILL

The Democratic Left Front hereby submits its preliminary response to the Traditional Courts Bill (TCB, Bill 15 of 2008) to the National Council of Provinces (NCOP). We intend to send you a full submission in due course.

We are extremely concerned that today's deadline is passing without much notice and without much mobilisation of rural communities by government to ensure that large numbers and diverse voices of engaging in genuine consultation with those who will be most affected by it, in particular rural women.

The DLF calls on the NCOP, the National Assembly and government to create adequate opportunity for all rural people to be consulted on, and make their views heard on this Bill. We therefore call on the NCOP to convene provincial hearings on the TCB. Specifically, we call on the NCOP to ensure that such consultations are not held at the homesteads of chiefs or headman under the guise that those are tribunals of custom. That would be a sham. We also ask for a platform for the DLF to make a verbal submission in any public hearings on the TCB.

We are extremely concerned that this Bill is anti-democratic in both content and process. South Africa is one country with a constitutional framework that commits to human rights, equality and consultation. It is therefore unacceptable that through the TCB close to 17 million South Africans living in the former homelands are about to be stripped of their constitutional rights. This Bill will create a separate legal regime under the jurisdiction of unaccountable traditional leaders: rural dwellers in former homeland rural areas will effectively become subjects yet again.

In our analysis, the Bill embodies an autocratic and patriarchal approach which turns rural



dwellers into powerless and voiceless people who require mediation through the agency of unelected and unaccountable traditional leaders. This virtually makes it impossible for rural people to be heard in their own right and diversity. Further, the TCB will reinforce the power and practices of those traditional leaders who are corrupt, unaccountable and who violate the rights and interests of broader rural communities. Already, many traditional leaders are mired in corrupt mining and land deals in the poorest parts of South Africa.

The DLF calls for a new law to govern community-based access to justice mechanisms that would be deeply democratic in content and process. Such a law must establish a broad national legal framework to standardise common systems, principles and procedures for community-based access to justice that are fundamentally founded on the promotion, advancement and deepening of justice, gender equality, democracy, accountability and human rights. Key principles in such a law must include the following:

1. Such a law must ensure access to justice through mechanisms that are democratic, accountable and challengeable. This therefore means that such mechanisms must not be reduced and integrated with the powers of chiefs.
2. Rural people must also be able to opt whether to use such mechanisms. They must not be forced into one regime as the TCB does by not allowing them to opt out of the TCB regime.
3. Women must be adequately represented (50-50) in such structures.
4. Gender equality must be effectively integrated and actively promoted in content and practice.
5. People's customs and practices must be respected whilst also harnessed to be consistent with the freedoms of association and expression as well as the rights to equality, non-discrimination, legal representation and other democratic rights.
6. The approach to judgments to be followed must not deprive people of their rights including land. The judgments must actively promote the social justice principles of equality, solidarity, dignity and human rights.
7. Community-based mechanisms or customary law must not be used to limit and hollow out democracy, human rights, gender equality, non-discrimination, and the freedoms of association and expression.

We hope and trust that you will do no less than the principles outlined above in finalising your recommendations on the TCB. We will elaborate on the above in our full submission as promised above.

Yours sincerely

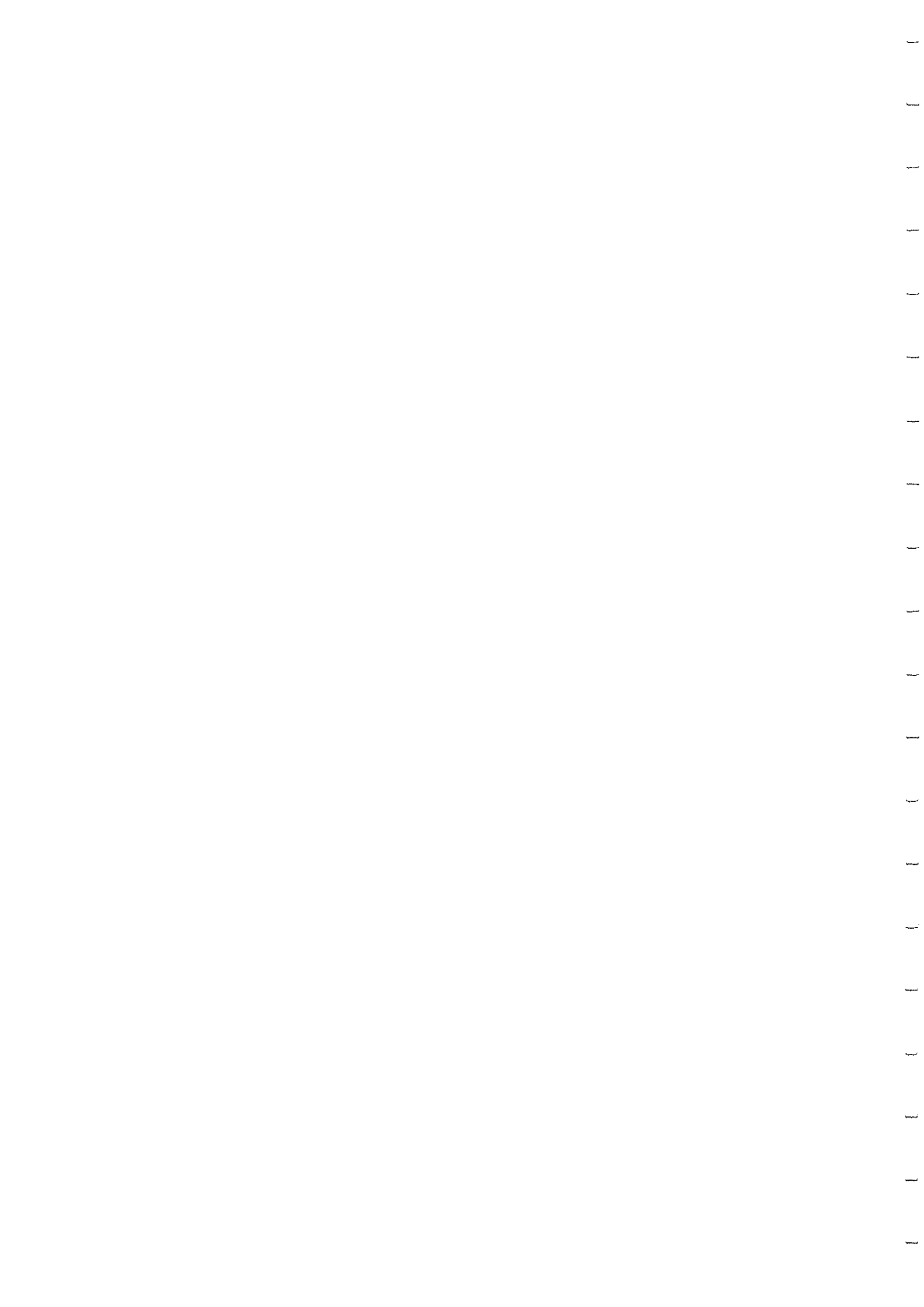


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**Vulamasango Singene
Intsika Yethu District**
(which represents 109 villages)

Isikoba AA
Cofimvaba
5380

C/o Nomgcobo Somdyala
Phone 0786827174

1. Singabantu base Cofimvaba asihambisani nale Bill ngokuba siyibona njenje yendlela zokungcungcuthekisa abantu kwindawo zabo zokuhlala.
2. Ingxaki enkulu ngale Bill kuckyba yenziwa ngokubonisana ne National House of Traditional leaders neenkokheli ezisezi- offisini kaRhuliment welizwe nokumaphondo.
3. Oku kweziwa ngaphandle kwengxoxo zoluntu ngakumbi abangoomama njengoko ingabo abasisininzi kwindawo zasemakhaya kwaye ingabona bachaphazeleka kakhulu yile Bill
4. Le Bill sisiyibona isesinye isisxhobo sokuhlukumeza aamlungelo abantu abangomama. Inikeza amandla kwinkosi njenoko uninzi lweenkosi ingabantu abangotata. Ayiwananzanga amalungelo wabantu abangoomama lokuthata inxaxheba nokuzibandakanya kwiinkundla zeenkosi.
5. Le Bill ayicacisi ngokuthe gca ukuba abantu bazodla eyiphi indima kwezinkundla xa kukho ingxubakaxaka ekufuneka isonjululwe
6. Le Bill inikeza iinkosi amandla okuba izigqibo zabo zingaphikiswa
7. Ibulala amandala ezinye iinkundla zasemakhaya.
8. Inika iinkosi ezilawulayo amandla okugweba noba ngomphi umntu ukuba asebenze ngokuthanda kwazo nokuba oko kunyathela amalungelo akhe
9. Iqinisa ulawulo nemithetho emidala eyayenziwe ngexesha lobandlululo eyayicinezela abantu ukuba bahlale belawula yimithetho abangahambisaniyo nayo
10. Inqanda ilungelo labantu lokuzikhethelela ukukba yeyiphi inkundla afuna ukuyisebenzisa xa enetyala
11. Lo Mthetho uyalivimba ilungelo lokumelwa ligqwetha oku ke akuvumelani nomgaqo siseko welilizwe othi wonke umntu unelungelo lokuba azifunele igqwetha xa enetyala.

12. Ayibavumeli abantu abangoomama ilungelo lokuzimela xa bejongene namatyala okugxothwa kwindawo abahlala kuzo.

13. Ayiwahloniphi amalungelo abantu abangoomama /aabahlolkazi ukuba bazixoxele xa bethathelwa imihlaba.

Sicela ke singabahlali le Bill ikhe ibuyiswe umva njengoko oku kungasetla kungenzekanga. Asikhange sinikezwe ithuba lokufaka imibono yethu, asikhange ukutsho imfuno zethu ngaphambi kokuba kwenziwe lomthetho uzakuchaphazela thina. IyasaThina bantu siyibona njengento ezokwechitha iindlela ebezikho ngaphambili zokuxoxa zisombulule amatyala neengxwabangxaba zasezilalini. Siyibona ikhona imfuneko yokucaciswa kwenjongo nomong wale Bill, indawo yoomama, amandla nendlela ekwakhiwa ngayo ezinkundla. Ayisonwabisi into yamandla anikekezwa umntu omnye siwabona engaphezulu kunaye ngoba asiyiboni eyokuba uzakuba ngmphandi, tashutshise abuye abengumgwebi ngaxesha nye. Sithi ke U rhulumente makuqinisekise ukuba abantu basezilalini abona bachaphazelekayo makuqinisekise ukuba intatho nxaxeba yabo. Amaqonga okuviwa kwezinvu zabantu ayenziwa kumaphondo onke phambi kokuba ithathe isigqibo ngale Bill.