

South Africa: No space for woman in Traditional Courts Bill

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The recent closure for public submissions on the Traditional Courts Bill has caused great concern as the Bill could strip millions of rural South Africans – especially women – of their basic rights. It substantially increases the power of traditional leaders to the expense of people's basic democratic rights, such as the right to an attorney and the right to be tried in a mainstream court.

According to the Bill, traditional leaders will be chosen by the minister of justice and constitutional development, without the input of their respective communities, and presiding officers may thereby make judgements according to 'terms of customary law and custom'.

Dr Sindiso Mnisi Weeks, a senior researcher at the University of Cape Town's Law, Race, and Gender Department commented on the potential for partiality in a Bill that 'centralises power to a single individual who may have conflicts of interests'. This was a major concern among the parliamentary joint monitoring committee who stated that 'given the system is rooted in patriarchal traditions, the Bill would need to indicate how the representation of women in decision-making capacities in traditional courts will be ensured'.

Since the Bill's introduction in 2008, it has been met with widespread criticism, yet an exact copy of the original Bill is aimed to be reintroduced in the National Council of Provinces. The parliamentary joint monitoring committee urged that communities take part in the second round of consultations on the Bill, but as of yet the second round has not taken place.

In a press statement released on 15 January, the Democratic Left Front (DLF) called on the National Council of Provinces (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'.

According to the DLF the Bill 'embodies the increasingly autocratic and patriarchal approach of government – making it virtually impossible for rural people to be heard in their own right without the mediation of unaccountable and unelected traditional leaders. In this way, government renders rural women and other rural dwellers essentially voiceless.'

Justice department spokesperson Tlali Tlali commented that the concerns raised about the Bill, as well as any new ones that might arise, are to be addressed during the parliamentary process in the National Council of Provinces. The revised Bill must be enacted by 30 December 2012.

P.S.

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