Wednesday, 05 June 2019

Memorandum to President Ramaphosa:

We, the rural peoples of South Africa living in the former homelands, are gathered at Union Buildings, Pretoria on 05 June 2019 to consolidate resistance to the Bantustan Bills and build on the common struggles of rural peoples under the 'Stop the Bantustan Bills Campaign'. We come from grassroots organizations, the women's movement, people living with disabilities, youth movements, mining-affected communities, communal landholders, small scale farmers, LGBTQ peoples, faith-based groups, academics and civil society partners from over 60 communities across the provinces of Eastern Cape, North West, Mpumalanga, Gauteng, Free State, KwaZulu-Natal, and Limpopo.

We gather here today, in unison, to demand that you, Mr President, overhaul regressive legislation and not sign them into law. We call on you, Mr President, to STOP THE BANTUSTAN BILLS. By this we refer to the following:

a. Traditional and Khoi-San Leadership Bill B23D-2015 [TKLB]
b. Traditional Courts Bill [TCB]
c. Traditional Leadership and Governance Framework Amendment Bill B8D-2017
d. Communal Property Associations Amendment Bill B12B-2017
e. Protection, Promotion, Development and Management of Indigenous Knowledge Bill B6D-2017
f. Restitution of Land Rights Amendment Bill (Complete the first phase)

We join other communities, movements and organisations in our declaration that these Bills are unconstitutional and as such must urgently be referred back to Parliament and completely scrapped for the following reasons:
1. These Bills impact directly on rural communities, movements and organisations; in particular these Bantustan Bills adversely impact on our communal land and property rights.

2. The TKLB restricts affected household and community participation in decision making and rural governance about our own land. The TKLB vests all power for traditional communities to transact with their property in the traditional council; only giving notice and not necessarily informed consent before such transactions are concluded. Specifically, Section 24 of TKLB which will allow the traditional leader to enter into deals on the land without the consent of the land rights holder, that is a form of expropriation of property without compensation.

3. The Traditional Leadership and Governance Framework Amendment Bill gives traditional councils another 5 years to transform and comply with the Framework Act of 2003, and as we now stand very few traditional councils have even held elections.

4. The Traditional Courts Bill restrict rural communities from enjoying the fruits of democracy and access to justice because they will be bound to traditional courts which will also be able to exclusively apply customary law to their social and other relationships.

5. The Indigenous Knowledge Bill vests all the Indigenous Knowledge property of any customary law community in a “trustee” – and as a result, such a trustee is the only person who may represent such a community in the commercial exploitation of its Indigenous Knowledge property and said “trustee” would hold the power of consent.

6. These bills all deal with overlapping subject matter: the property rights of citizens of whom customary law is applicable to them; the transactability of communal property rights; and the ways that communities can assert or be deprived of their legal rights. The bills are incompatible with the peoples’ power of consent, their right to say no and local living customary law.

The current realities for the communities gathered here is such that we are fighting to assert our rights against undemocratic institutions of traditional leadership, corporate greed and unethical business practices, which are facilitated by the failures of Parliament to allow our people an opportunity for meaningful public participation in law and policy making.

In fact, we tabled our concerns on countless occasions and we call on you to consider the recommendations of the Motlanthe High Level Panel which has produced a comprehensive report that has yet to be adopted by Parliament.
In conclusion:

We demand that you fast track the process of land expropriation without compensation because it is already included in the Constitution, and we cannot wait for the amendment to the Constitution. We believe that the communities gathered are testament to the struggles of ordinary people from Makhasaneni to Bapong, from Cala to Witbank, from Welkom to Mapela. WE DEMAND THAT YOU MAKE GOOD ON THE PROMISES OF THE STATE IN 1994 THAT WE WOULD HAVE ONE SOUTH AFRICA FOR ALL! We say NO to impunity of transnational corporations that are allowed to trade in South Africa by co-opting the system of traditional leadership with the blessing of the state.

Submitted by Molo Mo on behalf of STOP THE BANTUSTAN CAMPAIGN

Received and Signed by Feri Ms On behalf of the Presidency

Witnessed by

[Signature]

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