



3 November 2019

PUBLIC HEARINGS OVER CONTENTIOUS TRADITIONAL COURTS BILL TO START IN SOME PROVINCES

Press Statement issued by Land and Accountability Research Centre, University of Cape Town

The Land and Accountability Research Centre (LARC) is alarmed and concerned that the National Council of Provinces (NCOP) seems to be rushing to complete a public consultation process on the Traditional Courts Bill – one of the so-called “Bantustan Bills” which are deeply problematic for how they remove rights from the 18 million South Africans living in former homelands.

There is little information available to the public on how the various provinces will be managing public hearings.

Last week the Free State provincial legislature issued a notice to stakeholders informing them that hearings will take place this week – from Tuesday – and requesting written submissions by the end of the week.

The hearings have taken rural activists by surprise as the bill was only revived in Parliament on 17 October after it lapsed due to national elections. Repeated Constitutional Court judgments have emphasised that lawmakers must act with care to ensure thorough public participation is conducted before adopting new laws. The sudden haste to finalise the bill may leave out some stakeholders.

An initial timetable issued by the NCOP’s Select Committee on Security and Justice for the consultation process required provincial legislature hearings to be held this week ahead of a final mandate from each province to be received by the end of this month.

LARC has learned that some provinces have since requested an extension on the timeframe but this is yet to be approved by the NCOP. A proposal has reportedly been put forward by the Select Committee to extend the deadline for final mandates to the end of February 2020 but it is unclear when a decision on a possible extension will be made.

Activists are now scrambling to get accurate information and are trying to access transport to ensure that they will be able to participate in the processes. In the Free State and Eastern Cape, venues and dates have apparently been confirmed but information about these has not been released. On Friday, LARC was informed by the Western Cape Provincial Parliament that the Western Cape will go ahead with hearings this week. Provinces like Limpopo, Mpumalanga and the Northern Cape appear to be postponing their processes, but at this stage details are also unclear.

If hearings are going ahead it is crucial for members of the public to be informed with sufficient notice so that they can make plans to attend and so that media outlets can report on what transpires.

With the existing confusion and uncertainty it is unlikely that most interested persons will be able to make their arrangements to participate in time. LARC is also concerned that members of the public will expend scarce resources to attend public hearings that have been announced, but which then are changed by the provincial legislatures at the last minute.

It is essential that the viewpoints of ordinary people living in rural areas of the former Bantustans be heard. In its current form, the bill creates a separate justice system for these people and will have a massive impact on their lives.

Until improvements are made to address fundamental concerns about the bill's failure to comply with the Constitution, LARC maintains that the bill must be stopped. It remains a threat to rural democracy and the property and citizenship rights of ordinary people.

LARC will continue to try to get confirmation of hearing dates and locations and will post these to its website www.customcontested.co.za as they become available.

For further information please contact:

LARC Deputy Director Monica de Souza Louw

monica.desouzalouw@uct.ac.za

+27 21 650 5693 | +27 78 074 2211

LARC Researcher Thiyane Duda

thiyane.duda@uct.ac.za

+27 21 650 3360 | +27 83 450 3265

LARC Researcher Ayesha Motala

ayesha.motala@uct.ac.za

+27 21 650 5104 | +27 76 628 4020

END