



COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION

MEDIA STATEMENT

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CASAC calls for withdrawal of Traditional Courts Bill

The Council for the Advancement of the South African Constitution (CASAC), a member of the Alliance for Rural Democracy, calls on the National Council of Provinces (NCOP) to heed the calls of many South Africans during the Public Hearings on the Traditional Courts Bill (TCB) to **STOP THE TCB**. The voices of ordinary people must be heard. CASAC calls for the Bill to be withdrawn in its entirety. We also welcome the opposition to this Bill by Ministers Lulu Xingwana and Jeff Radebe, as well the South African Communist Party.

This Bill is not only unconstitutional but also brings into sharp focus the following fundamental and substantive issues which must be addressed as a matter of urgency:

- Customary boundary disputes which have fractured and divided many communities;
- Imposition of extra-statutory and illegal tribal levies or taxes on the rural poor – with the result that some have to wait for months before they can bury their spouses and loved ones due to outstanding levies;
- Abuse of power by some traditional leaders who obstruct development initiatives by ordinary people;
- Disputes over the legitimacy of some traditional leaders and their imposition on communities.

The TCB undermines the constitutional principle of a unitary state with non-discriminatory legal dispensation for all its citizens. While CASAC recognises the importance of customary law in a diverse society such as ours, we also affirm the right of all citizens to make informed choices and exercise their right wherever they are. The Bill seeks to coerce those in rural areas to accede to the jurisdiction of traditional leaders.

The Bill takes away this right and reduces millions of South Africans to “tribal subjects”. It therefore takes us back to an era where the very basis of South African law was inequality and injustice, premised on the concept of ‘separate development’. We recently took former

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President De Klerk to task for seeking to justify the Bantustan system. It is unconscionable for a democratically elected legislature to attempt to resuscitate elements of apartheid. We therefore also call upon Government to reconsider section 28 of the Traditional Leadership and Governance Framework Act 41 of 2003 (TLGFA) which establishes these boundaries for traditional authorities.

The immediate withdrawal of the TCB will pave the way for serious engagement with the fundamental issues that have been raised in the Public Hearings, and a proper consideration of how to accommodate customary law within the constitutional framework and principles.

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