

The Honourable Dr ZL Mkhize

Chairperson

The Portfolio Committee on Cooperative Governance and Traditional Affairs

Per email: tklb@parliament.gov.za

Dear Honourable Members of the Portfolio Committee

Submissions on the Traditional and Khoi-San Leadership Bill [B11-2026]

The Legal Resource Centre (“the LRC”) makes these submissions on the instructions of the Alliance for Rural Democracy. ARD is a grouping of civil society organisations and individual activists that have joined together to contest policy and legislation that undermines the rights of rural citizens living in the former Bantustans and that threatens to dispossess them of rights in land.

The LRC is an independent non-profit public interest law clinic which uses law as an instrument of justice. It works for the development of a fully democratic South African society based on the principle of substantive equality, by providing free legal services for the vulnerable and marginalised, including the poor, homeless, and landless people and communities of South Africa. The LRC has been in existence since 1979 and operates throughout the country from its offices in Johannesburg, Cape Town, Durban, and Makhanda.

The LRC has been extensively involved in many of the leading cases before the High Courts, the Supreme Court of Appeal and the Constitutional Court dealing with the relationship and interaction between customary law, common law and the Constitution. In particular, we have sought to promote the status of customary law under the Constitution and its development to be brought in line with constitutional principles.

Matters in which the LRC was involved include:



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Alexkor Ltd v Richtersveld Community 2004 (5) SA 460 (CC); *Tongoane and Others v National Minister for Agriculture and Land Affairs and Others* 2010 (6) SA 214 (CC) (Customary law land and property rights);

Bhe v Magistrate, Khayelitsha (Commission for Gender Equality as Amicus Curiae);

Shibi v Sithole; *SAHRC v President of the RSA* 2005 (1) SA 580 (CC); *Mthembu v*

Letsela 2000 (3) SA 867 (SCA) (Customary law succession);

Premier of the Eastern Cape and Others v Ntamo and Others [2015] ZAECHC 14; 2015 (6) SA 400 (ECB); [2015] 4 All SA 107 (ECB) (Identification of headman in terms of customary law).

Pilane and Another v Pilane and Another [2013] ZACC 3, 2013 (4) BCLR 431 (CC) (rights of members of customary law communities to freedom of association).

Sigcau v President of the Republic of South Africa and Others [2013] ZACC 18, 2013 (9) BCLR 1091 (CC) (identification and recognition of King).

Mayelane v Ngwenyama and Another [2013] ZACC 14; 2013 (4) SA 415 (CC); 2013 (8) BCLR 918 (CC). (Customary marital property and maintenance);

Gongqose and Others v S; Gongqose and Others v Minister of Agriculture, Forestry and Fisheries and Others [2016] ZAECHC 1 (customary fishing rights);

Shilubana and Others v Nwamitwa 2009 (2) SA 66 (CC) (Chieftanship and gender rights).

Baleni and Others v Minister of Mineral Resources and Others (73768/2016) [2018] ZAGPPHC 829; [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP) (Customary land ownership).

The LRC also represented some of the applicants who challenged the previous version of the Traditional and Khoi San Leadership Act in the Constitutional Court, which challenge led to the introduction of the current Bill before this committee. The ARD and its National Coordinator at the time, Ms Constance Mogale, were also applicants.

The LRC welcomes the opportunity to make these submissions to the Portfolio Committee on Co-operative Governance and Traditional Affairs on Bill B11-2026 ('the Bill'). Our submissions are based on the premise that this Bill provides a crucial opportunity to remedy the challenges experienced with the implementation of the Traditional Leadership and Governance Framework Act of 2004 ('the Framework Act'). We thus make submissions on those challenges and how we fear the current Bill fail in providing appropriate solutions to the well-documented problems of the Framework Act.

Context to this Bill

1. This Bill comes on the back of at least 26 years of legal and policy development that sought to answer the question of how customary law and traditional leadership should be integrated into South Africa's constitutional democracy. In parallel to the legal and policy developments, communities have experienced the impact of previous versions of this Bill on the ground in different contexts, and have reported their experiences over time to parliament, to COGTA, and to various public fora such as the Motlanthe High Level Panel process of 2017.
2. The challenge to the TKLA brought by community members and community-based organisations in 2021 was motivated by the fact that these community members were not heard during the multiple hearings held towards the enactment of that doomed legislation. Again and again, they told parliamentarians what they experience on the ground and why the proposed legislation (the TKLA) would not only not address the very specific challenges they are experiencing, but would likely make things worse. In declaring the process that culminated in the TKLA unconstitutional, the Court said that "*public participation acts as a safeguard to prevent the interests of the marginalised being ignored or misrepresented. The significance of public participation for the advancement of South Africa's democratic project is underscored by the colonial and apartheid*

governments' complete disregard of the views of the people in legislating their lives".¹

3. On the purpose of the TKLA – which would be applicable to the present Bill before the committee – the Court held:

The TKLA replaces the TLGFA and seeks to address its failings. The parties agree that the TKLA is a piece of legislation that is of immense significance, impacting millions of South Africans. It aims to regulate one of the most controversial, complex areas of South Africa society; traditional communities and traditional leadership, against the background of centuries of colonial and oppressive regulation, which requires sensitivity to the experiences and needs of traditional communities. In submissions filed on behalf of Parliament, it was made clear that it also fully appreciates this. The High Level Panel also highlighted the significance of the issues regulated by the TKLB in its report. It noted that the non-recognition of Khoi and San communities and leaders in the TLGFA “potentially pose a threat to social cohesion and nation-building in the country”. However, it highlighted that members of the Khoi and San communities raised concerns that certain clauses in the TKLB were discriminatory. The High Level Panel recommended reconsideration of the provisions that may “elicit constitutional challenges and undermine social cohesion and nation-building”.

4. The Court also pointed out that the President’s Expert Advisory Panel on land Reform noted views held by the public that the TKLB and other draft legislation affecting communal land tenure “individually and collectively entrench the Bantustans by removing the right to equal citizenship in a unitary state, violating the principle of free, prior and informed consent, and reinforcing the powers of traditional authorities over customary and family land and resource rights [...] According to the reports and conclusions made by the High Level Panel and the Expert Advisory Panel, the TLGFA allegedly failed to address historical challenges faced by customary law and traditional communities. The TKLB failed to address

¹ At para 3.

the failings of the TLGFA and introduced further issues of concern. Parliament was alerted to these deficiencies and advised to consult thoroughly with communities before passing the Bill to prevent further entrenchment and perpetuation of colonial and oppressive customary law regulation”.²

5. In this context, it is regrettable that when the Department of Cooperative Governance and Traditional Affairs (‘COGTA’) introduced this Bill to the committee on 10 March 2026, Dr Singh “noted that, since the Constitutional Court had made no findings on the substantive content of the 2019 Act, the main principles of that Act had largely been retained”.³
6. Dr Singh’s comment disregards the fact that the Court was not asked to make findings on the substance of the Act; only the procedure was challenged before them. Even so, the Court was at pains to point to the widely documented public outcry about the TKLA, which was precisely why the failed consultation process justified a declaration of constitutional invalidity. The Applicants themselves raised serious concerns which motivated their approach to the Constitutional Court. These were set out in detail in the papers before the Constitutional Court. In summary, though, the Applicants were advised that the TKLA would be unconstitutional on at least three accounts:
 - a. Democracy and Openness: The TKLA limited, rather than promotes, the democratisation of traditional governance.
 - b. Governmental powers: the TKLA unconstitutionally allocated overbroad and, in some respects, governmental powers and functions to traditional councils and traditional leaders.

² At para 41 to 45.

³ <https://pmg.org.za/committee-meeting/42554/>

- c. Accountability Objection: the TKLA failed to provide for adequate transparency and accountability of traditional leaders and councils to the community whose interests they are meant to serve.
7. Despite these significant flaws to the TKLA, Dr Singh explained that the Bill now before the committee, only contains minor amendments to the TKLA. We comment on those amendments further below.
8. Before turning to our client's main concerns with the Bill, we relate the long history that culminated in this legislation to highlight that the concerns raised by communities today have been raised by them consistently for decades.

Relevant history

9. The 2000 Discussion Document on Traditional Leadership in a democratic South Africa of the then Ministry of Provincial and Local Government set out the early post-constitutional thinking on the inherited tribal authorities as follows:

Pre-colonially, traditional leaders ruled according to the principles of African democracy and accountability....With the advent of colonialism, the African traditional government was systematically weakened, and the bond between traditional leaders and their subjects was gradually eroded...When the National Party came into power in 1948...legislation increasingly strengthened tribal divisions and gave traditional leaders powers and roles they did not possess before....Essentially, these laws established a system of local government that placed the traditional leaders at the centre of the bureaucratic system of traditional authorities. Chieftainship came to be reduced to a very different institution. As one commentator noted: 'It was a public office created by statute. That is the reversal of the position of the chief in traditional society in which the role of the chief was to represent his people according to the dictates of customary practice. This reversal, effected by the Act, has plainly made the appointment, suspension and deposition of chiefs subject to political manipulation [...] the customary structures of governance of traditional

leadership were put aside or transformed. New structures were established in their place in terms of the Black Authorities Act of 1951.

10. Despite this history, the legislature decided, in 2003, to adopt the model created by the Black Authorities Act of 1951 wholesale in the Traditional Leadership and Governance Framework Act. Traditional leaders and their councils would still receive their power from government and be accountable to government, and the tribal identities of communities, leaders and authorities were replicated even given the many examples of “political manipulation” that distorted these identities.
11. Two mechanisms were introduced by the legislature to ameliorate the problems inherent to the Bantustan model retained in the Framework Act. These were:
 - a. Elections of 40% of members of traditional councils to join the 60% chiefly appointees; provided that a third of the council should be women; and
 - b. A Commission on Traditional Leadership Claims and Disputes to settle boundary and leadership disputes.
12. These mechanisms have not been effective in transforming the inherited tribal authorities.
13. As for the Commission as a mechanism, there would eventually be a national commission and several provincial commissions, with a commission to deal with Khoi-San issues introduced with the Traditional and Khoi-San Leadership Act.
14. By all measures, the different commissions have struggled with legitimacy. Most of the initial commissioners, including the Chair of the original commission, resigned years ago citing unhappiness with its functioning, the quality of its work and political interference.⁴ Countless decisions were taken on review to the

⁴ See Peires, Jeff ‘History versus customary law: Commission on Traditional Leadership – Disputes and Claims’ in *South African Crime Quarterly* 2014:14.

Courts, and the LRC continues to be approached by disgruntled community members and royal families wishing to challenge commission decisions.

15. The problem is hugely exaggerated by the fact that customary law is no longer applied either in determining the identity of the leader (which customarily happened within a community without interference from the state or any outside authority) or in how people associate. While secession was a key tool in customary law to hold leaders to account, communities are now locked into the Bantustan tribal boundaries and cannot reject the authority of an abusive or illegitimate leader. Allegiance is legislated and therefore, a leader or a council member has no incentive to ensure the loyalty of his/her people. Most traditional leaders act honourably and in the interest of their communities in any event, but those who don't, cannot be held accountable.
16. We pause to note that COGTA appears to appreciate the problem. As a result, one of the main changes introduced in the Bill now before the Committee, as explained by Dr Singh, is *“mandatory documentation and submission of customary laws of succession and genealogies by royal families to the Minister or relevant Premiers to address succession disputes”*. This is now contained in Clause 2(1)(iv) of the Bill. As we explain below, however, this ‘solution’ to a recognised problem misconstrues customary law and will therefore not solve the problem.
17. Problematic as the commission model has been, it did function and it made decisions and recommendations. Traditional council elections, however, have been completely ineffective and, in some instances, have never happened. We set out a chronology of attempts at traditional council elections over the last twenty years:
 - a. The Framework Act as originally enacted in 2004 envisioned traditional councils to hold elections and validate themselves within one year of the Act coming into force, and then for elections to happen every 5 years after



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that. None of the traditional councils complied within one year, and only a handful complied within 5 years of the Act. Councils continued to operate in a legal vacuum until 2009.

- b. In 2009, in recognition of this failure, the Act was amended. Unfortunately, the legislature did not acknowledge that the requirement of holding thousands of elections across the country every 5 years was unworkable, and simply gave traditional councils until 2011 to comply.
- c. Unsurprisingly, that did not remedy the situation. The overwhelming majority of councils still could not comply, often because of inadequate support from provincial governments.
- d. By 2015, when the Traditional Affairs Bill was introduced, the situation had not changed. Limpopo province had, by then, not had a single traditional council election. The Bill tried once again to 'save' the councils until they could finally be properly constituted (for 5 years) by resuscitating the status of the councils as they were in 2004. This Bill did not pass through parliament.
- e. Instead, the TKLB was introduced in September 2015, introducing yet a fresh timeline for councils to try and comply.
- f. By 2017, when it was clear that the TKLB will not make its way through parliament quickly, a Traditional Leadership and Governance Framework Amendment Bill was introduced to once again try and save the overwhelming majority of traditional councils that were still, or once more, non-compliant.
- g. In 2017, the HLP report noted the "the abject failure of the Department of Co-operative Governance and Traditional Affairs to enforce the limited transformation measures in the law, namely, the election of 40% of the

members of traditional councils, and the quota of one-third women members”.

18. When the TKLA was passed in 2019, it provided that traditional councils in existence at the time would expire by 31 March 2022. All 840 traditional councils thus had to have elections before that date.
19. By the time the constitutional challenge to the TKLA was launched in December 2021, none of the provinces had even taken any of the preliminary steps required for facilitating elections.
20. In his answering affidavit to the Constitutional Court filed in October 2022, the Director-General of COGTA, on behalf of the Minister, made this remarkable admission:

As it stands, there is no legally correct constituted traditional council in the country. In other words, they will not be unlawful from 1 April 2022, they are already unlawful and has been for many years.
21. By December 2022, only one province, the North West, had published draft regulations. It was thus completely inconceivable that any of the 840 traditional councils would be able to have an election in time.
22. In April 2023, COGTA told parliament that it has a plan in place to ensure that all traditional councils would be reconstituted by March 2024 (at least one year after the deadline imposed by the legislation). Based on evidence from the ground, it appears that some elections did happen before that deadline, but in many communities people reported not being aware of any elections. Thus, in July 2024, we addressed a letter to the Minister of COGTA to enquire how many traditional councils had been legally (re)constituted, and what the status is of those that did not hold elections (attached marked A). We received no response.
23. In September 2024, and in response to parliamentary questions, the Minister confirmed that no traditional councils were constituted by the revised deadline of



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31 March 2024, and that yet another deadline, namely 4 February 2025, had been set.

24. However, only four provinces even attempted to meet this new deadline, with the members of only 251 of more than 840 councils gazetted in February and March 2025. Reports from communities to the ARD also indicate that where elections were held, these were mostly not compliant with the prescripts of the TKLA and its regulations, with few community members even being aware of elections happening and, as a result, most were uncontested.⁵

25. In addition, of those councils that did have elections, about 20% did not comply with the minimum threshold of one third women representation – a threshold that is raised in the current Bill to 50%.

⁵ Across the Sekhukhune District Municipality in Limpopo, community members consistently reported to ARD that they either did not know elections were taking place or were unaware that they had the right to elect members of traditional councils. In Makhuduthamaga Local Municipality, most community members were unaware that elections had taken place and therefore did not participate. In Ephraim Mogale Local Municipality, community members indicated that they first learnt about traditional council elections during ARD workshops. In Fetakgomo Tubatse Local Municipality, community members confirmed that they had never participated in traditional council elections. In Lepelle-Nkumpi Local Municipality, people who participated never received feedback on election outcomes or the composition of the council. In Mpumalanga, the situation was similar. In Matibidi (Thaba Chweu Local Municipality), community members explained that election information did not reach everyone. Invitations were reportedly directed mainly at elderly men, excluding many women and young people. Although some residents voted, they never received information about the election results or whether successful candidates had been gazetted. In Bushbuckridge Local Municipality, many residents only knew about the elections because of information shared through ARD. They further explained that they were not permitted to nominate candidates and could only vote for candidates already identified by the traditional authority. In Ngwenyeni, participation was reportedly limited to beneficiaries of the trust after notices were circulated through a community WhatsApp group, excluding many residents. In the Eastern Cape, people reported that traditional council elections did take place in most villages. However, many community members felt that proper procedures were not followed and that the process was not sufficiently transparent. Some villages reported that a significant number of residents did not participate in the elections, while others stated that they do not even know who currently serves on the traditional council. This has created uncertainty about representation and accountability within traditional governance structures. In KwaZulu-Natal and North West, community members reported that no traditional council elections had taken place in their communities.



Inappropriate and unworkable solutions in response to clear problems

26. In drafting the Bill, COGTA identified many of the same problems that ARD and its constituent communities have experienced. However, we submit that the solutions proposed are or will be unworkable.

I. Democratic transformation of traditional councils

27. As we have explained, the mechanism introduced by the legislature in 2004 to transform the inherited Bantustan tribal authorities into traditional councils that can be integrated into a constitutional democracy, was elections of 40% of traditional council members.

28. We have set out above the record of compliance of the relevant provinces and the more than 840 traditional councils in holding elections consistent with the legal prescripts. In short, after 22 years, only a quarter of the 840 traditional councils held any elections at all, while only a handful held legally compliant elections.

29. If neither COGTA nor the provincial governments have been unable to hold elections regularly – or even once – in 22 years, how could one reasonably continue to rely on this mechanism to transform the institution? In

30. Given how critical the lawful constitution of traditional councils is for their proper functioning and for some form of accountability to community members, it is unacceptable to continue relying on a mechanism that only exists on paper.

31. We note that the Department of Traditional Affairs, in its Strategic Plan for 2025 to 2030 presented to parliament last year, the Department indicated as its target to have “100 Traditional Councils functional by 2029”. At that pace, the Department should have all 840 Traditional Councils “functional” by 2065.



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32. Traditional councils exercise extraordinary powers on the assumption that they are properly constituted and functioning, even though it is common cause that they are not. This, we submit, is not lawmaking that is sensitive to the needs of traditional communities.

33. We submit that the legislature must provide for the budgetary and human resources mechanisms that would make properly publicised, inclusive, transparent, free and fair elections realisable every 5 years. If that is not possible, we cannot continue to pretend that traditional councils are lawfully constituted and legally and factually able to take decisions on behalf of community members. It is a betrayal of rural communities.

II Accountability

34. In their presentation to the Committee on the Bill, Dr Singh noted that it “strengthened public accountability mechanisms for statutory structures of traditional and Khoi-San leadership”.

35. This presumably refers to the addition to clauses 19 and 20 of a requirement that councils must submit a strategic plan for five years to the Premier for approval and must include information on, amongst other things, the exercise of any of its functions and its budget and expenses.

36. We submit that few traditional councils will be able to comply with these requirements. Traditional councils were already required to do financial reporting and budgeting in terms of the Framework Act, but there was little to no compliance with these requirements, and provincial governments simply did not have the capacity or willingness to enforce these prescripts. On behalf of clients, we sought to obtain the financial reporting documents filed with provincial governments in Limpopo and the North West as required by the legislation of those provinces, but in both cases it appeared that no traditional authority or council had ever



complied with these requirements. As a result, there was no consequences for non-compliance and no accountability.

37. These new and increased requirements also ignore the huge spectrum in terms of resources and capacity that traditional councils occupy. Some traditional councils who manage mining revenue, for example, have access to significant capital. Other councils, where little to no income is generated, barely have enough to provide stationary for its office. Enforcing blanket requirements of this nature to be enforced by the State does not respond to the reality on the ground.

38. The proposed clauses are premised on the idea that only the State can hold traditional councils to account. But that is not only disempowering of community members, but contrary to customary law.

39. We submit that a more workable and indeed constitutional solution would be to introduce mechanisms by which community members can hold their councils to account. The Bill does not contain a single mechanism that empowers community members to raise the alarm when they suspect malpractice. As such, the Bill does not, in reality, “strengthen accountability mechanisms” for councils.⁶

III Customary law

40. The Bill introduces a definition of customary law that reads:

the established norms, rules, traditions, practices, and dispute resolutions mechanisms that have evolved organically within specific traditional and Khoi-San community over time, and which are accepted and observed by its members as

⁶ ARD’s fieldwork has indicated that the lack of meaningful consultation from councils is a recurring concern for communities. In Sekhukhune District Municipality (Limpopo), for example, community members explained that they are usually called to the *Moshate* only after decisions have already been made. Meetings are used to communicate decisions rather than to seek community input or consent. In other contexts, community members expressed fear of questioning traditional leaders. Participants reported that challenging decisions may result in intimidation, fines or exclusion from community life, creating an environment in which accountability is difficult to achieve.

binding and authoritative in the regulation of internal affairs, including the selection, roles, responsibilities and succession of their respective leaders.

41. This definition is not consistent with the constitutional recognition of customary law as a system of law that gives rise to property and other rights that are not only applicable internally to a community, but is recognised as legal rights in South African law. Rather, this definition harks back to pre-constitutional, colonial conceptions of customary law. Given the central importance of customary law to the legislation, we are deeply concerned with this misconception of the status and nature of customary law contained in the definitions.
42. This distortion of the nature and status of living customary law, as recognised repeatedly by the Constitution, is also evident in the Bill's introduction of mechanisms to document genealogies of Royal Families as a proposed solution to the continued contestation over traditional leadership that the commissions did not resolve.
43. As has been widely documented and recognised by the Constitutional Court, customary law is a deliberative system of law in which disputes, including disputes over leadership, are resolved through broad debate and consensus-seeking. Leadership identification is a process internal to communities and not a rigid application of genealogies. It is certainly not a process that should be dictated by the State.⁷

⁷ The ARD has seen this play out in the North West. In one community, the provincial government recognised a Kgosi without consulting the community. Residents rejected the decision, closed the tribal office and demanded engagement from the Premier, arguing that legitimate traditional leadership depends not only on state recognition but also on acceptance by the community.



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Conclusion

44. In conclusion, we submit that the Committee must carefully consider the Bill before it and how it addresses the challenges of democratic transformation, accountability and freedom of association that arose with the Framework Act. This legislation is, indeed, as the Constitutional Court said, seeking to cover a very complex area of law and governance that affects millions of South Africans. It requires great responsiveness from the legislature.

45. We look forward to further engaging the Committee, as appropriate, in crafting solutions that work for rural communities.

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Dear Honourable Minister

Re: Failure to reconstitute traditional councils in terms of the Traditional and Khoi San Leadership Act 3 of 2019 ('TKLA')

1. We refer to the above matter and address this correspondence on behalf of the Alliance for Rural Democracy, Nkuzi Development Association, the South African Green Revolutionary Council, the Land Access Movement of South Africa, the Kopano Formation Committee, the Makuleke Community and the Land and Accountability Research Centre.
 2. As you are aware, the TKLA came into force on 1 April 2021. While the Constitutional Court declared the Act unconstitutional, that order was suspended for two years, meaning that the TKLA remains in operation until 29 May 2025.
 3. The TKLA includes various contradictory sections relating to the deadlines for traditional council elections.
- 3.1 Section 63(4)(a) of the TKLA provides that



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A tribal authority that, immediately before 24 September 2004, had been established and was still recognised as such, is deemed to be a traditional council contemplated in section 16 of this Act and must perform the functions referred to in section 20: Provided that such a tribal authority must be reconstituted to comply with the provisions of section 16 (2) within two years from the date of commencement of this Act.

Thus, all deemed traditional councils – that includes the vast majority of traditional councils across the country - had to be reconstituted by 31 March 2023.

3.2 In terms of 16(1), traditional councils already recognised by the time the Minister publishes a formula for the constitution of traditional councils in terms of the TKLA, must be reconstituted within 2 years of such publication.

3.3 The TKLA required the Minister to publish a formula for the election of traditional councils within 2 years of the TKLA coming into force. This formula was published on 4 February 2022, providing provinces more than a year to comply with the elections' deadline.

3.4 On 22 February 2024, a new formula for the determination of traditional council numbers was published.

4. It should also be noted that, in section 16(4), the TKLA provides that

notwithstanding anything to the contrary contained in any law, the term of any traditional council that was established and constituted prior to the commencement of this Act, will expire on 31 March 2022.

5. The Department of Traditional Affairs' Annual Performance Plan for 2023/2024, presented to parliament in April and May 2023, indicated that an intervention plan had been devised to ensure that traditional councils are properly constituted by 31 March 2024 (a year past the legislated deadline). This was presumably in terms of section 63(4)(c) that provides that:

If the timeframes contemplated in paragraph (a) or (b) are not met, the Minister may, within one year after the timeframes have lapsed and after consultation with the relevant Premier, apply the provisions of section 16 (2) to ensure that such tribal authority or traditional council is constituted or reconstituted in accordance with the

provisions of section 16 (2).

6 It appears that some elections did take place in some areas days before the deadline, but we have not been able to find gazette notices to that effect for any provinces other than Limpopo. In addition, our instructions from community members suggest that at least some of these elections were not legislatively compliant.

7. The organisations we write for represent communities who have not seen any elections since the coming into force of the TKLA, and in most cases, for years prior to that. For participatory decision-making regarding land deals and natural resources, service delivery, beneficiation, and infrastructure or commercial development, community members must be part of the traditional councils and it is on this basis that communities ask the Department to act urgently. They have instructed us to demand confirmation from your Department about the following:

7.1. Which traditional councils have now been properly constituted and when do/did their terms commence?

7.2. By when will the outstanding elections be held?

7.3. How is the Department ensuring that the elections comply with the legislative prescripts?

7.4. If any traditional council elections that took place were not conducted in terms of the applicable legislative requirements, what are the Department's remedial plan(s) to ensure compliant constitution?

7.5. Has the Department informed traditional councils who have not yet been properly constituted or reconstituted that they are barred from conducting business, performing functions and making decisions until these processes are complied with completely?

8. We will appreciate a response by Friday, 19 July 2024.

Yours sincerely,

LEGAL RESOURCES CENTRE



Per: WILMIEN WICOMB