SUBMISSION TO THE PORTFOLIO COMMITTEE ON RURAL DEVELOPMENT AND LAND REFORM
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Introduction
Land Access Movement of South Africa (LAMOSA) is a federation of Community based organization who where forcefully removed and have claimed land through the Restitution Programme. It was formed in 1991 through the Back to Land Campaign, and Barokologadi Communal Property Association is a member community to LAMOSA in the Northwest Province under the Moses Kotane Local Municipality.

Chairperson, Honourable members of the Portfolio Committee on Rural Development and Land Reform, we appreciate and welcome the Repeal of the Black Administration Act (BAA), we like to think that its repeal is long overdue in that its tentacles are already spread in the new formulated bills. As Barokologadi Communal Property Association (CPA) we would like to bring the following scenarios to the attention of this committee, as it impacts negatively on the envisaged development plan of the restored land.

Barokologadi of Melorane

At the time of the forced removal of the community in 1950, the community was split into 4 groups and settled in 4 villages. Different villages with no real connection with the Barokologadi were incorporated into two tribal authorities under the Bantu Authorities Act of 1951. According to government records this was done for “administrative feasibility purposes”.

The Barokologadi of Melorane fought and won the restitution of their ancestral land around the Madikwe Game Reserve and now holds that land under the Barokologadi Communal Property Association. The incorporated communities tried to use the new laws to address this issue which was problematic to date without success. Attached letters attest to this. 18/07/1985, 27/08/2001 10/09/2004, 12/06/2006.

It used the TLGFA and the Northwest Leadership and Governance Act to complain to the premier about the apartheid and homeland incorporation of the 4 groups under different tribal authorities. The community got this answer:

"The Traditional Authority cannot be dismantled, lest floodgates of problems are opened”, and “this would create new administrative problems”.


Our community expected better from the new laws under our constitution. The wrongs done under the Bantu Authorities Act must be undone. We could get our land back but we cannot get our community back.

I, TZ Molwantwa, was born in 1944 at Melorane near Zeerust. I grew up, I was “given” [in Setswana tradition], in my grandmother’s household. My grandmother, Baitse Ngwatoe [1880 – 1967] was the first child of the Kgosi Thari [1800s – 1930s]. She would have been the kgosi if we had a democratic constitution at the time. I do not want to be a kgosi but I am telling you this to show that I am rooted in the community.

When I was 6 years old our community was moved by force from Melurane. I remember some of the events and my family still talks about it. The forced removal process included:

- Impounding of cattle… I saw this;
- Fencing across the village and arrests for trespass for crossing the fence to fetch water;
- Government trucks came to load our people and their possessions;
- We started with nothing in the new villages.

The first Scenario: Barokologadi Tribal Authority
Under the Black Authorities Act (BAA), four communities were clustered under the Barokologadi Tribal Authority, though they themselves did not relate to the Barokologadi. Two of this communities, Ramothabe and Silkaatskop where landowners who bought their own private farm and had their own community authority, which was incorporated under the Barokologadi Tribal Authority. Two other communities live in a state land in the proximity of the Barokologadi tribe also had their Community Authority with affinity to the original main tribe e.g. Nkaipaa (Bafurutshe) and Sesobe (Bakwena) commonly known as Nooitgedacht.

Second Scenario; Barokologadi Ba-Obakeng Community
This Community is part of the Barokologadi Tribe, which during forced removals of Barokologadi Tribe from their ancestral land Melorane. They went to stay in a private farm called spitskop (Motlollo). Later during the former Bophutatswana era, they were allocated land at Obakeng (Volgestruisdraai and because of their proximity to the Batlokwa Tribal Authority, they agreed to be served by the Batlokwa Tribal Office for administration purposes as their tribal Authority was far from them with no proper roads to reach the office. Since our democratic Government they have been trying in vain to regain their place in the Barokologadi Traditional Administration.
The changing of Boundaries and clustering of these communities under the abovementioned tribal authorities brought about tensions, which escalated to date.

1. One of the reason being that they do not share any traditional values with these tribal authorities and are forced to observe and practice the Traditions and value systems of this tribe. The feel they have been made second-class subjects under this authority.
2. Whilst they were made to pay levies to the Tribal Authority there was no service rendered to them, preference with service delivery was always been given to the main tribe.
3. There is nothing to show how the revenue benefited them, no Financial report are provided.

Given the above these communities are agitating to be released from these Traditional Authorities and have made submissions before the Portfolio Committee in 2003, stating their intention, and this has been blocked at every corner, attached find response letter from the Premier of the Northwest 2004.

Ref: 11/2/10//3/14 (183) Subject: Problems at Nkaipaa

In this letter to the Chief Director of Legal Services the then Chief Director of Traditional Leadership and institutions concluded: “The claim of the Nkaipaa community to secede cannot be entertained; the Traditional Authority cannot be dismantled, “LEST FLOOD GATES OF PROBLEMS ARE OPENED”

Faced with this attitude that denies them their Constitutional rights, these communities are now revolting, the following are few examples

- Nkaipaa Community has now resorted to Legal Action and has established their own administration system with their own stamps. Those who still abide by the Barokologadi Tribal Authority have no mandate.
- Sesobe and Obakeng Community are also not cooperating and have since established their own office own stamps and letterheads.
- There is also a rumour that Ramothabe and Ramokgolela(silkatskop) Community also wants to unilaterally withdraw. Submissions have been made to Nhlapo Commission without any help.
- Retaliation by the traditional council influences those who have to offer services not to do so unless he is consulted first. E.g. Obakeng MTN Tower project was abandoned as a result. The Municipality Ward Councilors are also in cahoots, instead of focusing on Developments and service delivery, they are now indulging in these politics, and therefore the community stands to suffer.
Conclusions
We propose that the BAA Repeal Bill should include clauses that will address the above scenarios otherwise it will a “Repeal” by name only.

The TFLGA and TCB should be reviewed so as to ensure that they are not a repetition in disguise of the Black Authorities Act.

Thanks that CLARA has succumbed to the pressures from the communities and has been scrapped of as unconstitutional. Thanks to those communities who never relented ever since the hearings in 2003 over this Act. We hope this repeal Bill will bring relief to the communities who are still suffering injustices sixteen years after the dawn of our democracy in our country.

| Barokologadi Tribal Authority BAA 1951 Traditional Council TLGFA 2003 [under Kgosi OTS Maotwe] | Batlokwa TA / TC [under Kgosi Matlapeng] |
| Barokologadi\(^1\) of Melorane Barokologadi Communal Property Association CPAA |

\(^1\) Barokologadi of Melorane: the Barokologadi first settled at Melorane in the 19\(^{th}\) century before the Transvaal Boer Republic imposed its rule over the Western Transvaal. The community was removed by force from Melorane in 1950 and its land was distributed to white farmers. These farms were much later incorporated into Bophutatswana and the luxury Madikwe game reserve was established.

In 1950 the community was removed by force from Melorane, split into 4 groups and settled in 4 villages. One village was incorporated under the Batlokwa chief during the Bophutatswana for “administration purposes”. Other disparate communities were incorporated under the original Barokologadi. The motive for incorporation had nothing to do with customary law or association of people. The government letters show this.

In the constitutional era part of the original Melorane land was restored to the community, but the settlement agreement by the Land Claims Commission requires that the Madikwe game reserve will continue under co management, and community members may not return to their ancestral land. The problem is that the apartheid and homelands governments incorporated communities under these tribal authorities in terms of the Bantu Authorities Act of 1951.

The imposed system continues under the new TLGFA of 2003 and the Northwest Governance and Leadership Act. The National Commission on Disputes and Claims under the TLGFA and the North West House of Traditional Leaders do not have the statutory powers to resolve the issue. In fact the new laws made the situation worse because they frustrate the rightful claim of the community to govern itself on customary matters in terms of customary law.
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<tr>
<th>Mkaipaa village²</th>
<th>1 Pitsedusulejang village (Hartebeestdoorn) 2Debrak 3 Katnagel</th>
<th>4 Obakeng³ village</th>
<th>Molatedi village⁷</th>
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<td>Sesobe³</td>
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<td>Ramothlabe⁴</td>
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<td>Silkatskop⁵</td>
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<td>Restitution farms Madikwe [part of the original Melorane] 1 Rooderant 2 Mooiplaats 3 Tweedeport 4 Sebele (Loteringskop) 5 Genadendal 6 Eersteport 7 Wolwehoek 8 Doornhoek 9 Leeuwenhoek</td>
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² Nkaipaa: associated with the Bafurutshe tribe of Witkleigat of Kgosi Lencoe
³ Sesobe: associated with the Baphalane tribe of Ramakoka stad
⁴ Ramothlabe: community members purchased the land without assistance from chiefs
⁵ Silkatskop consists of different people with different affiliations who settled on state land
⁶ Obakeng: is Barokologadi by origin, is now administered by Batlokwa despite no association historically
⁷ Molatedi: this is the main village of the Batlokwa tribe