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'The Control of Butsakatsi Practices Bill'

In their submitted objections against the Mpumalanga Witchcraft Suppression Bill (2007), the Traditional Healers Organization (THO) proposed that a separate piece of legislation be drafted which they have entitled 'Control of Butsakatsi Practices Bill'.

The THO has defined "butsakatsi" as:

...including the use of harmful medicines, harmful charms, harmful magic and any other means or devices in causing any illness, misfortunes or death to any person or animal, or in causing any injury to any person, animal or property.

The THO has motivated the drafting of the 'Control of Butsakatsi Practices Bill' on the basis of the following statements which appear in their submission to the Mpumalanga Legislature:

1. Should Butsakatsi not be controlled properly within the Province, it may result in such cases being dealt with outside the criminal justice system.
2. It (the Bill) must make a paradigm shift from the denial and channel the anger and the frustration of the people who have a justifiable belief that they are bewitched within the legal framework.

Specialised Witchcraft Courts

The THO further argues that in order for the Bill to be effective specialized witchcraft courts be established as appendages of the formal court system.

The THO establishes that in such courts, the diagnosis of traditional health practitioners shall constitute prima facie proof in any and all allegations of bewitchment brought before these courts.

The THO also determines that any person who:

- a) is found in possession of any part of the human body and cannot explain how she or he came into possession of such, shall be deemed to be a Witch, and
- b) any person who is found in possession of any animal that is proved to be used for any witchcraft related act, such a person shall be deemed to be a witch.

The THO defines Witchcraft in this context as:

- a) any act or conduct, which causes or leads to the infliction of injury, illness, or even spiritual damage to another person through the use of ubuthi (any object, act or substance, including poison, and any act that is evil in its nature and does not uphold the principles of humanity and nation building as enshrined in our constitution, and including casting a spell on any person) or other destructive means
- b) any act or conduct that leads to the death of another person through ukuthakatha (witchcrafts)
- c) any act or conduct which is perceived by the community as unnatural and capable of causing danger or damage to the person or property of another through some negative energy
- d) any conduct or act which cannot be explained in western scientific terms but which is perceived or believed to exist and can be proven so to exist by those trained in African Science through diagnosis.

THO Definition of Witchcraft

In correspondence to the THO dated 17 July 2007, the South African Pagan Rights Alliance (SAPRA) submitted a formal objection against the THO's definition of Witchcraft, arguing that:

1. the THO's definition of Witchcraft as causing or leading to "the infliction of injury, illness, spiritual damage and death" constitutes an infringement on the right of self-defined Witches to freedom of religion and belief, and
2. the THO's definition of Witchcraft undermines the dignity and security of self-defined Witches by characterizing Witches as a threat to the well-being of communities within which Witches live and work.

Mpumalanga Witchcraft Suppression Bill (2007)

In substantial objections against the proposed Mpumalanga Witchcraft Suppression Bill, SAPRA repeatedly called on the Mpumalanga legislature not to permit the drafting of any legislation which will in any way prohibit or criminalize South African citizens on the grounds of religion or as the result of automatic inference of criminality.

The Mpumalanga legislature has acceded to SAPRA's objections and has undertaken not to proceed with the proposed Mpumalanga Witchcraft Suppression Bill (2007).

SAPRA argues that the proposed 'Control of Butsakatsi Practices Bill' will in effect illegally prohibit and criminalize persons (alleged Witches) on the basis of belief (of the accused and traditional healers) and the Alliance cautions strongly against supporting this proposal.

Conclusion

SAPRA has warned that the THO's definition of Witchcraft will serve to justify future acts of revenge against alleged and actual Witches on mere suspicion of bewitchment and that this definition constitutes hate-speech and implicit incitement to violence against anyone suspected or accused of practicing Witchcraft.

SAPRA further warns that the THO's proposal to create 'specialised witchcraft courts' constitutes a grave threat to the constitutional promotion of equality and human dignity in the Republic of South Africa, cornerstones of the advancement of human rights and freedoms already enshrined for all South Africans in Chapter 2 of the Constitution of the Republic of South Africa (Act 108 of 1996).