

HIGH LEVEL PANEL REPORT

Working Group (WG) 3 on Social Cohesion and Nation Building

PUBLIC HEARINGS REPORT: LIMPOPO PROVINCE

14 & 15 March 2017

1. BACKGROUND

This is a report of Working Group 3 on Social Cohesion and Nation Building. It is a record of the challenges, concerns and opportunities on social cohesion and nation building, and on the broader theme of the triple challenges of poverty, inequality and unemployment. Key in these public hearings is assessing the impact of key legislation and policies, or lack thereof, in advancing social cohesion and nation building. The public hearings sessions, a combination of a platform for invited stakeholders and general submissions from the public floor, were convened on 10 and 11 March 2017 in Polokwane, Limpopo province. Chaired by the overall Chairperson of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, Mr. Kgalema Motlanthe, panel members in attendance were:

- Mr. Kgalema **Motlanthe** (Chairperson);
- Dr. Terrence **Nombembe** (Panel member of Working Group 2);
- Rev. Malcolm **Damon** (Panel member of Working Group 2);
- Prof. Aninka **Claassens** (Chairperson of Working Group 2);
- Prof. Alan **Hirsch** (Panel member of Working Group 1);
- Judge Navi **Pillay** (Chairperson of Working Group 3);
- Dr. Olive **Shisana** (Chairperson of Working Group 1);
- Ms. Bridgette **Mabandla** (Panel member of Working Group 3); and
- Mr. Thulani **Tshefuta** (MC and Panel member of Working Group 1).

Also in attendance was Speaker of the Limpopo Legislature, Ms. Polly **Boshielo**.

INTRODUCTORY REMARKS: Speaker of the Limpopo Legislature: Ms. Polly Boshielo

- Ms. Boshielo welcomed traditional leaders, farm-based communities, academia, students and civil society members present. Specifically, she noted the presence of the MEC for education, as well as COPE party leaders in the province.
- People want to take responsibility in changing their own lives – in participating in democracy.
- The main aim was to take cognisance of the pieces of legislation that are not assisting development, or have adverse spin offs.
- People are tired of poverty, unemployment and inequality.
- Ms. Boshielo indicated that subsequent to the submissions made during the public hearing, she looks forward to the implementation of reforms. Also represented here is the MEC for Education.

INTRODUCTORY REMARKS: Mr. Kgalema Motlanthe

The High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change was appointed by the Speakers' Forum, a forum of the speakers of the nine provincial legislatures of South Africa. It was set up on the mandate of the Legacy Report coming out of the Fourth Democratic Parliament of the Republic of South Africa (2009 – 2014), which outlined the state of South Africa concerning the triple challenges of poverty, inequality and unemployment. The Speakers' Forum felt the need to assess the impact of key legislation and policies on four areas, viz; (i) Poverty and unemployment; (ii) Wealth creation and inequality; (iii) Land reform, redistribution, restitution and security of land tenure; and (iv) Social cohesion and nation building. Areas (ii) and (iii) were collapsed into one, spurred on by the thematic correlations. Eventually, as the work of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change was constituted, the three areas came to constitute the three working groups of the High Level Panel.

The methodology with which the High Level Panel seeks to assess the impact of laws, legislation and policies on these three areas are:

- Call for submissions from the public;

- Public hearings conducted throughout the nine provinces of South Africa;
- Round table / Stakeholders presentations and discussions;
- Commissioned research;
- Desktop research on primary and secondary materials;
- Government departmental presentations (form part of the roundtable / stakeholders' fora).

2. OVERVIEW OF ISSUES RAISED

- Land reform and land restitution;
- Foreigners and access to resources;
- Traditional governance;
- Social cohesion;
- Welfare of sex workers;
- Post-matric youth unemployment;
- Welfare of traditional healers; and
- SMMEs challenges

3. THEMATIC AREAS

Land Reform and Land Restitution: concerns on land reform and land restitution are similar to those raised in other provinces. However, noticeable is that the weight (quantitatively / in numbers) and seriousness of land reform and land restitution concerns in the Limpopo province are the most serious compared to the rest of the other South African provinces. Concerns raised on land reform and land restitution were the following:

- Land Restitution Act.
- Extension of Land Tenure Act.
- Farm dwellers must be prioritized in land restitution.
- s. 23 – should sanction transgressors.
- Unfavourable conditions of farms workers and farm dwellers.
- Farmers and transgressors are never held to account.

- Termination of employment unprocedurally.
- Land Claims Court is not useful.

Recommendations:

- There should be outreach literacy programmes on legislative advocacy campaigns, so as to educate communities about the Constitution, their rights as well as pieces of legislation affecting their daily lives.
- Majority of people covered by ESTA are illiterate. There should be conversions / translations into local languages.
- Over 30% of farms do not undertake agricultural production, but are game farmers.
- Farm workers do not have access to water and second-generation constitutional rights.
- The Department of Health and the Department of Home Affairs should undertake farm visitations and provide basic services there.
- Farm workers do not know where to go to report injustices.
- The Panel should review legislation on land ownership patterns.
- There is a need infrastructure to service inputs.
- The Land Restitution Act did not take regard of economic power and focused on amassing political power.
- Submissions called for the drafting of legislation to effectively undo the legacy of the 1913 Land Act.
- Security of tenure is not prioritized.
- Lack of land prevents poor communities from participating in the economy.
- Communities need land, title deeds and land tenure.
- In order to acquire land, a lease agreement is needed.
- State land: much state land remains unoccupied. In some instances, state land is occupied by politically and financially-connected people.
- An update on outcomes of research on land is needed in South Africa.
- Some submissions communicated that although land was received via a land claim, it was taken away as the land contains mineral deposits.
- Government should give money to people who claim land back.
- Traditional leadership should be left out of mainstream politics.
- Most of farms acquired through projects are not viable.
- Viable land is not sold.

- Areas given for land acquisition are not well resourced and lack infrastructure and equipment. Very little support is given to farmers acquiring these farms.
- There exist difficulties in transitioning from small-scale farming to commercial farming.
- Strategic partnership is not strategic to black farmers given areas on HR and labour to handle, and not on finances.
- There is a need for government to conduct a land audit.
- Support given to black farmers is intermittent – available this year and not available the following year.
- Black farmers are not trained on farming entrepreneurship.
- Labour, electricity costs are too expensive for most of black farmers.
- Women are given farms without machines (tractors) and without irrigation schemes.
- Electricity tariffs are very high.
- Farms have gone back to white farmers due to high electricity costs. Farms are sometimes leased to white farmers.
- Market-related land reform has never succeeded anywhere in the world (sourced from the World Bank).
- Out of 10 land reform projects, 9 have collapsed.
- Black people own only 17 percent of farming land. This low figure of ownership remains problematic.
- In 1994, government closed two agricultural colleges in Limpopo, making it difficult for black farmers to acquire skills and to undergo skills-transfer.
- According to the *Communal Property Association Act*, land belongs to the people, and not to chiefs.
- CPA needs amendment to rectify roles of chiefs in land restitution.
- Some of the strategic partners know nothing about land funding.
- There is a need for an ombudsman office to deal with post-settlement matters.
- Lack of a post-settlement support should be regarded as counter-revolutionary.
- 'Willing-buyer, willing-seller' is implemented as a law, and not as a principle.
- s. 2(1) (d) of the Expropriation of Land Act is not followed.
- s. 11 of the functions of officials of the Regional Land Claims Commission is not followed.

Foreigners and competition for resources: concerns raised on foreigners and competition for resources with South Africans were the following:

- Permits for foreigners to enter the country are too easily accessible.
- Foreigners do not pay taxes.
- Foreigners sell cheaply, and as a result, local businesses suffer.
- Foreigners want to relegate locals to only selling alcohol.
- Foreigners do not have licenses to open shops.

Traditional governance: concerns raised were:

- Tribal levies are common place throughout Limpopo.
- Traditional leaders mete out physical harassment to people – an old practice extended to today.
- People are kidnapped and beaten up by chiefs' private police and private soldiers. Soldiers harass people who express grievances about the chiefs.
- Chiefs have their own private jails.
- Chiefs implement states of emergencies in the villages in the evenings.

Social Cohesion: broad concerns on social cohesion raised were:

- Discrimination: on race, tribalism and sexism.
- Constitutional prerogatives are not well-implemented.
- Children are raped and cases are not followed up.
- The interests of women and children in particular are not well protected.
- Women are afraid to come forward on representation.
- Women's voices are not heard.
- Ndebele ethnic group is yet to be recognised (e.g. Ndebele language inclusion in the academic syllabus).
- No appropriate public bathrooms for people with disabilities.
- Infrastructure of schools is inadequate as well as bursaries.

Welfare of Sex Workers: these concerns were raised in other provinces, and the concerns on the welfare of sex workers in Limpopo are similar to those. Concerns raised were the following:

- Sex workers' experiences and abilities to access public services are hindered by prejudices.

- Legal framework: Sexual Offensives Act, works against prostitution.
- **Realities of sex workers:**
 - There is a high murder rate of sex workers.
 - There is fear in laying criminal charges by sex workers against perpetrators due to fear of stigmatization.
 - Sex workers are 18 times more likely to be murdered in their line of work.
 - Sex workers are unlikely to report cases to the SAPS because police officers themselves are perpetrators of crimes and rape against sex workers.
 - Sex workers face challenges in accessing justice.
 - Sex workers are continually persecuted by the police.
 - Access to health services is hindered and inadequate.
 - Sex workers receive poor health services from health care workers due to prejudice and stigma.
 - The current legal framework is inconsistent with regional and international legal frameworks, and with the Constitution.

Post-Matric Youth Unemployment: concerns that emerged in Limpopo were similar to those raised in other provinces:

- The facilitation and implementation of youth programmes in South Africa is sorely lacking.
- Youth should be positioned to contribute positively to society.
- Parliament must support all youth projects as well as quality education.
- Internships and learnerships are selective.
- Learners should specialize from Grade 8.
- Skills development: amend the *Skills Development Act*.
- Background should not be deterrent to institutional skills acquisition.
- Improve monitoring and evaluation. There is funding for youth organisations, but there is no follow-up on monitoring and evaluation.
- There is need to resource mobilisation on capacity building.

Welfare of traditional healers: concerns raised were:

- Departments in Limpopo, including the Limpopo Legislature, do not take traditional healers seriously.
- Government puts prices on initiation schools.
- Traditional healers are excluded from government programmes.

SMMEs' challenges: the few concerns raised were:

- Challenges of SMMEs on funding agencies – challenges in accessing funding from commercial banks, e.g. IDC.
- Implementations of resolutions are not followed-up. There is a need to push stakeholders (e.g. municipalities) to push for implementation of resolutions.

4. POLICY AND LEGISLATIVE IMPLICATIONS

- *Land Restitution Act.*
- *Extension of Land Tenure Act.*
- *Sexual Offensives Act.*
- *Communal Property Association Act.*
- *Skills Development Act.*
- *BBBEE Act.*
- *Companies Act.*
- *Employment Equity Act.*
- *Municipal Demarcation Board Act.*

6. DISCUSSION AND RECOMMENDATIONS (Roundtables)

None.

7. ISSUES TO REFER TO OTHER WORKING GROUPS

Land reform and Land Restitution.