

HIGH LEVEL PANEL REPORT

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

PUBLIC HEARINGS REPORT: MPUMALANGA PROVINCE

18 & 19 January 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 for the Mpumalanga Province, a combination of a platform for invited stakeholders and general submissions from the public floor, were convened on 18 and 19 January 2017 in Nelspruit. 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: High Level Panel);
- Prof. Eddie **Maloka** (Panel Member: Working Group 3);
- Dr. Yvonne **Muthien** (Panel Member: Working Group 3);
- Judge Navi **Pillay** (Chairperson: Working Group 3);
- Prof. Haroon **Bhorat** (Panel Member: Working Group 1);
- Dr. Aninka **Claassens** (Chairperson: Working Group 2);
- Ms. Bridgette **Mabandla** (Panel Member: Working Group 3);
- Rev. Malcolm **Damon** (Panel Member: Working Group 2);
- Ms. Thandi **Shongwe**: Speaker of the Mpumalanga Provincial Legislature
- Mr. Thulani **Tshefuta** (Master of Ceremonies and Panel Member: Working Group 1)

INTRODUCTORY REMARKS: SPEAKER OF THE MPUMALANGA LEGISLATURE: Ms. Thandi Shongwe

- Welcomes the leadership of the Mpumalanga Provincial Legislature, and welcomes members of the High Level Panel, and the people of the Mpumalanga province.
- Appreciates the hard work and dedication of the members of the High Level Panel, and wishes them well ahead of their work in 2017.
- Points out that legislative work and the work of the Speakers' Forum are important, and have been crucial in providing for an effective legislative framework since 1994.
- Legislatures should not only focus on laws passed since 1994, but should also consider laws passed during the apartheid era and their current relevance. This will serve to reverse the stubborn effects of the legacies of colonialism and apartheid.
- While significant inroads have been undertaken in deepening social assistance within the context of the legislative framework, much work remains to be done in this space, as South Africans contend with burdens of socio-economic and political challenges, within the context of national and global economic uncertainties.
- South African society is characterised by inequalities, and social cohesion remains a challenge (e.g. racism, especially affecting farm workers in Mpumalanga).

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. The panel was established following the Legacy Report coming 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; and
- Government departmental presentations (form part of the roundtable / stakeholders' fora).

2. OVERVIEW OF ISSUES RAISED

- Land reform, land restitution and food security;
- Rehabilitation of ex-offenders;
- Post-matric skills acquisition;
- Absorption into the job market of post-higher education youth;
- Youth: lack of access to land for agricultural and livestock productivity;
- Provincial / rural government offices: lack of responsiveness on land claims issues;
- Lack of funds and capacity development for SMMEs;
- Sequestration of black people: review of the *Insolvency Act 24 of 1936*;
- Review of the working and living conditions of farm workers;
- Summary dismissals of workers in the retail and catering industries;
- Challenges in pension pay administration;
- Foreigners and competition for socio-economic opportunities;
- Drug abuse problems and delinquency;
- Inadequate availability of sports facilities / grounds and parks;
- Violence against women and children;
- Health challenges;
- Police corruption: drug abuse;
- Passport challenges at border gates;
- Traditional leaders: abuse of power;
- Women-headed rural-headed entrepreneurship; and
- Inadequate access to safe and clean drinking water.

3. THEMATIC AREAS

Notes: concerns over the rehabilitation of ex-offenders have also emerged in other provincial public hearings, such as in Gauteng and the Western Cape. It is raised as a causal linkage to poverty and unemployment; and the youth's skills acquisition in pursuit of employment opportunities.

- **Rehabilitation of ex-offenders:** the ten year record maintenance of criminal records hinders the re-integration of ex-offenders into society. It is a barrier to accessing schooling, bursaries, artisanal and other socio-economic opportunities. Also, many government departments, including the Department of Correctional Services, do not employ ex-offenders.
- **Recommendations:**
 - Review of the *Criminal Procedure Act 51 of 1997*, to reduce sentences on smaller crimes, such as marijuana / dagga possession; public indecency, etc. The purpose behind this is to address the expungement of criminal records which hinder the re-integration of ex-offenders into society.
 - Reduce the maintenance of the criminal records on the files / police information systems, from ten to five years.
- **Legislation referred to:** *Criminal Procedure Act 51 of 1997*: reduction of sentencing for smaller/lesser crimes; reduction of maintenance of criminal records of ex-offenders from ten to five years.

Notes: inadequate skills acquisition by post-matric youth, along with the general need to develop a skilled and capable workforce; have been raised as prominent causal factors to poverty in all the provincial public hearings.

- **Post-matric skills acquisition & Absorption of post-higher education youth into the job market:** lack of adequate skills acquisition by post-matric youth in pursuit of employment and other socio-economic opportunities, is regarded as a primary cause and driver of poverty. This is a challenge that has emerged as a primary cause of poverty, inequality and unemployment in all the provincial public hearings convened thus far (Eastern Cape; Northern Cape; Free State; KwaZulu-Natal; Gauteng and Western Cape). Some of the attendant and related issues emerging alongside post-matric inadequate skills acquisition are:
 - Development of entrepreneurial skills in youth, supported by the National Youth Development Agency (NYDA) and the Department of Trade and Industry (DTI). People should be encouraged to develop their entrepreneurial inclinations, instead of being

directed to seek full-time employment opportunities in the formal sectors. This is in alignment with the need to inculcate and drive the spirit of entrepreneurship in our youth.

- Youth with educational certificates from institutions of higher learning do not receive employment opportunities due to the lack of work experience.
 - Many of unemployed youth, or those who are outside of the schooling system, in desperation and out of depression, resort to alcohol and drug abuse, delinquency and commit crimes.
 - Other challenges to accessing employment opportunities are nepotism and corruption. This is a challenge highlighted in all the provincial public hearings convened thus far.
 - There is little absorption of the high rate of matriculants into university and other institutions of higher learning.
 - Children who passed matric cannot proceed to institutions of higher learning due to strict grades –based requirements.
 - The Government of the Province of Mpumalanga signed a Memorandum of Understanding (MoU) on youth development projects. There needs to be a follow-up on this.
- **Affected Legislation:**
 - National Empowerment Fund Act No. 105 of 1998.
 - Broad-Based Black Economic Empowerment Act No. 53 of 2003.
 - Employment Equity Act No. 55 of 1998.
 - Employment Services Act No. 4 of 2012.
 - Skills Development Act No. 97 of 1998.
 - Skills Development Levies Act No. 9 of 1999.
 - **Youth: lack of access to land for agricultural and livestock productivity:** considering that Mpumalanga Province is a predominantly rural area, concerns over access to land for agricultural and livestock production are not exclusively a reserve for adults, but also for post-matric and post-higher education youth seeking to make a living. This is considered in Mpumalanga a driver / cause of unemployment and poverty. Some of the barriers to lack of access to land for youth are the abuse of power and privileges by traditional leaders; the inaccessibility of agricultural offices in the province; corruption and nepotism.
 - **Lack of funds and capacity development for SMMEs:** there is a need for funds and skills-based capacity to develop SMMEs, particularly in agricultural and agro-processing activities.
 - **Recommendations:** the Department of Trade and Industry and the NYDA should assist in providing funds and skills-based capacity development.
 - **Sequestration of black people: review of the Insolvency Act 24 of 1936:** many black people are sequestered as a result of actions brought forward against them by the South African Home Loans Association. Consequently, many black people are rendered financially non-viable, further worsening their plights of poverty, unemployment and inequality.

- Recommendations: review the *Insolvency Act 24 of 1936*.
- **Review of working and living conditions of farm workers**: farm workers in Mpumalanga are subjected to various forms of abuse and exploitation, inherently affecting their working and living conditions.
 - Farm workers are exposed to summary dismissals due to alleged improper filing of leave documents.
 - Others have been dismissed on account of disclosure of their HIV-positive status to their employers.
 - Many farm workers also find little rest time during their working hours. There is no consensus or clarity on working hours versus rest times.
 - Many farm employers hinder farm workers from registering with trade unions. Insistence on this has often led to summary dismissals.
 - There are reported cases of alleged sexual harassment and rape of female farm workers. Some farm workers have reported physical abuse meted out to them by children of their farm employers.
- **Challenges in pension pay-out administration**: machines dispensing cash at pay-out run out of cash.
 - SASSA officials lend out money to pensioners, and hold back their pension money when they do not receive their money back with interest.

Notes: perceived or real, the concern of challenges posed by foreigners in access to socio-economic opportunities, and in access to entrepreneurial spaces and opportunities, has emerged in all the provincial public hearings convened thus far. In many provinces, their activities are associated with the running of illicit drugs, and generate the pervasive drug abuse challenges. Their ability to 'come into our borders as they please' is also regarded as one of the main drivers of their negative contribution to social cohesion in South Africa.

- **Foreigners and competition for socio-economic opportunities**: foreigners allegedly dominate business opportunities, and access to socio-economic opportunities. They allegedly pose unfair competition to South African entrepreneurs, as they are not subjected to regulations to paying taxes, rents and other tariffs.

Notes: this featured as a prominent challenge in the Northern Cape, Western Cape and Gauteng provinces. It is mostly associated with youth delinquency, poverty, lack of access to socio-economic opportunities, and unemployment.

- **Drug abuse problems and delinquency**: the proliferation of drug abuse problems is often regarded as a consequence of the alleged illicit activities of foreigners, and what post-matric youth resort to in the face of persistent unemployment and inability to undertake their studies in institutions of higher learning.
- **Inadequate availability of sports facilities / grounds and parks**: this is considered a major potential contributor to social cohesion, particularly in townships and other lower income-earning communities.
- **Health challenges**:
 - There is shortage of ambulances, and ambulance services are slow to arrive at emergency points of service. There are also challenges in coordinating ambulance services with designated hospitals, and confusion over boundary competences between hospitals and ambulances.
 - Medication is not stocked in refrigerated conditions.
 - Theft of ARV medication.
- **Police corruption: drug abuse**: police officers have positive relationships with drug dealers, often taking bribes from them. This leads to the proliferation of drug abuse and crime in many areas.
- **Traditional leaders: abuse of power**:
 - Traditional leaders abuse their powers and privileges by selling communal land they are not authorised to sell, and without consultation with the residents.
 - There is lack of beneficiation from commercial developments on lands that traditional leaders administer.
 - Traditional leaders trade access to employment opportunities for sexual favours.
- **Women-headed rural-headed entrepreneurship**: women-headed businesses in rural areas require financial and skills-based capacity building in developing their businesses, particularly in the agricultural and agro-processing sectors.
- **Inadequate access to safe and clean drinking water**: many rural and peri-urban areas are exposed to contaminated drinking water, or no access to it.

4. POLICY AND LEGISLATIVE IMPLICATIONS

There is need for review of the following legislation:

- Criminal Procedure Act.
- Insolvency Act 24 of 1936.
- National Empowerment Fund Act No. 105 of 1998.
- Broad-Based Black Economic Empowerment Act No. 53 of 2003.

- Employment Equity Act No. 55 of 1998.
- Employment Services Act No. 4 of 2012.
- Skills Development Act No. 97 of 1998.
- Skills Development Levies Act No. 9 of 1999.
- Social Assistance Act No. 59 of 1992.

6. DISCUSSION AND RECOMMENDATIONS (Roundtables)

None.

7. ISSUES TO REFER TO OTHER WORKING GROUPS

- Land reform, land restitution and food security.
- Provincial / rural government offices: lack of responsiveness on land claims issues.
- Review of the working and living conditions of farm workers.
- Summary dismissals of workers in the retail and catering industries.
- Traditional leaders: abuse of power.
- Women-headed rural-headed entrepreneurship.