

# HIGHLEVEL PANEL ON THE ASSESSMENT OF KEY LEGISLATION AND THE ACCELERATION OF FUNDAMENTAL CHANGE

## REPORT OF WORKING GROUP 2 ON LAND REFORM, REDISTRIBUTION, RESTITUTION AND SECURITY OF TENURE

NORTH WEST PUBLIC HEARINGS, Rustenburg, 1-2 March 2017

### 1. INTRODUCTION

The North West hearings were held over two days at the premises of the Municipal Council in Rustenburg. The following summarises land reform inputs made during these hearings, both from the prepared stakeholder inputs and spontaneous contributions from members of the public.

Over the two days, on the issue of land, the Panel heard from: Kholisile Dingiswayo (Schaapkraal CPA), Mrs M Motene, Tsholofelo Molwantwa (Barokologadi), Morei (Makgokgwane Land Owners, Koster), David Ramohano (Wonderkop Land Claims Committee), Gadifele Tawana (Goedgevonden), Sophie Magale (Bakgatla baKgafela), Ronnie Monye (Gender CC, Korsten), Kgositsile Samuel Pilane (Bakgatla ba Kautlwane), Kgomotso Morare (Bapong baMogale), Baby Makgeledise (Batlounge), Connie Madingoane (LAMOSA), Gaodimale Timmy Lekwa (Batlaping).

From the floor, inputs were made by: Mphiwe Mashekoa, Chris Molebatsi (Wonderkop), Gamuthlatla Community, Molatedi Community, Godfrey Mashite Makalane, Dikeledi Mogae, Mogorotsi Morole (Farm Dwellers), Philip Maibute More (HaMogopa, Ventersdorp), Thabo Mkhondo (Taung Local Municipality under Chief Mothabane), Kgomotso Khunong (Bafokeng Land Buyers Association), Kaizer Moene, Tsepiso (Moses Kotane Municipality), Nicholas Samuel Letuki (Molatedi), Joseph Chippa Mohole, Modibedi, Mosoeu (Phatsima), Setangwane.

### 2. ISSUES RAISED

- Hundreds of hectares of land were reportedly restituted to the Nku, Rabopi, Ma-skopjan and Norite communities, together with the farming equipment, irrigation networks, houses and storage facilities. However, to date, only ruins remain on the site, leaving stretches of unproductive and unattended land. Beneficiaries are left poverty stricken and under-developed as a result of this failed restitution process. The Communal Property Association

Amendment Bill will impact beneficiary communities negatively, as they stand to forfeit restituted land, due to the fact that it is deemed unused land that is economically viable. This means that they will be dispossessed for a second time. SPLUMA might assist in giving communities a voice in the planning and use of their land, but implementation of the Act is too slow (*Kholisile Dingiswayo*)

- Land restitution processes that take decades to produce results lead to hardship. A claim lodged before 1998 is still unresolved, plunging the community in crisis, because the same land is continually being allocated to others. The presenter appealed to the HLP to ensure that the land is restituted to its rightful owners, coupled with the necessary support (*Mrs M Motene*)
- The Restitution of Land Rights Act was well intended, but its implementation and the challenges that accompany land restitution are disappointing for beneficiaries. The community created a CPA in 2006 and had its land restituted in 2007. However, they received the land with several challenges, such as invaders on the land, which has been reported to the Department of Rural Development and Land Reform. Because of devastation caused by vandalism the community, although poor, was forced to take the matter to court. Whilst the decision of the High Court confirmed that the invaders of the land were illegal occupiers, it suspended their eviction, as they claimed the land also belonged to them and that they have lodged a claim to the land. In the meantime, the illegal occupiers have multiplied in numbers. The community approached the Land Claims Court but has not received any progress update. They returned to the High Court, which ordered the removal of the cattle on the farm by the Sheriff. However, in a week's time, the Sheriff arrived with another order directing him to return the cattle to the land. A third group from the neighbouring land (who left the community in 1945) also lodged a claim to the land as beneficiaries. The same group lost its claim against this community in 2015, approached the Land Claims Court to interdict the Barokologadi Ba Ga Matoe community from developing the land but on 9 February 2017 the court rejected the interdict application. However, the court ordered Government to consider the case of the other people, by either arranging mediation to resolve the matter or arranging alternative land. All the court action is making the community poorer, utilising funds that should have been used for development. The community has been failed by the DRDLR in terms of assistance to guard the land. Members of the CPA live 40 km away from their land, are not settled on their farm; as a result, they do not have capacity to guard their land 24hrs (*Tsholofelo Molwantwa*)
- **Expropriation Act** is supposed to facilitate land reform, but is now used against the people. Community's land claim involved the Dam, Game Reserve, and was regarded as a claim with good prospects. Signed a settlement agreement, designating the Dam as a national asset. Community thought they would benefit from the Dam, but no benefit to date, despite

communicating with the Department of Water Affairs. Got investors, but they want to know what the position is regarding the Dam. Received communication from the Department informing that they are expropriating the land and that they would come and value the land. This goes against the settlement agreement (*Tsholofelo Molwantwa*).

- Problem with laws is that they are either not implemented, or heavily under-resourced. Farm workers are the most vulnerable and remain the most exploited and impoverished. Parliament and Government has done little to assist them. Until farmworkers have land equity they will remain impoverished. Whilst the progressive ESTA A/B, which was tabled in 2015, will assist farmworkers greatly, this Bill has not been fast tracked. The Bill will significantly increase the protection of the rights of farm workers and protect them from inhumane evictions. However, Parliament is taking its time to pass the Bill (*COSATU*)
- Injustice against Griqua people, discriminated against as a minority group. The 1852 Sanveldt Convention stripped Griqua people of their land ownership. This was confirmed in the 1913 Land Act. The 2015 **Traditional and Khoisan Leadership Bill** still discriminates against Griqua people (*Chief Pienaar*)
- The Khoisan were excluded from the Restitution of Land Act and land legislation. Never stopped being discriminated against. Excluded from Constitution and Government budget. Resulted in disintegrated communities and damaged families. In 2013, President Zuma promised the Cape of Good Hope Castle as a place of healing. However, this has not been realised (*Dr Langerveldt, Korana Khoisan*)
- Toward the settlement of a land claim, Mr Bokgatsu (of the Regional Land Claims Commissioner's office) introduced the CPA as a legal entity to the community. Whilst this group just wanted the land, government introduced CPA as the only mechanism available to them to register land claim in their own name. At the time of the public hearings, it was almost six years since the establishment of the CPA, which is already on the land with committee of 11 people. The CPA comprises land buyers and other people that the original land buyers do not know. The feeling expressed was that they do not want CPA because it brings them together with other people that they do not know (*Morei, Makgokgwane Land Owners, Koster*)
- Instead of access to 50ha of land, the CPA committee gives beneficiaries or members 12.5 kg maize-meal per month; this was not considered to be a benefit compared to access and use of the land in question. The plea to the HLP was that government must promote granting access to land – without imposition of CPA (*Morei, Makgokgwane Land Owners, Koster*).
- The land buyers reported that the land that their fathers acquired was bought at the cost of 56 pounds (what year? unclear). That was a lot of money at that time. A complaint was that

the CPA did not give access to land buyers. In fact, they questioned what CPAs are and that communities must be made aware of the functions of CPAs so that they are able to make informed decisions about legal entities suitable for landholding. Government and CPA have used the land of the 59 buyers (restitution). There is a list of 200 members in the CPA and the presenter alleged that the rest of the land buyers do not know who those people were (*Morei, Makgokgwane Land Owners, Koster*).

- ***Inputs from the floor included:***

- The community occupies several farms. Khosi Gabriel sold a piece of tribal land in 1993. Company wants to mine without obtaining proper tribal authorisation. Using fraudulent documentation. This is despite the fact that IPILRA contains many provisions relating to consultation with owners or occupiers of land containing minerals. 30-day consultation period for prospecting and 180 days for mining rights, not enough time to consult properly. Community ordered the company to vacate the land, but it still remains on the land. Wants Panel to assist with investigation of what is happening in the village. **MPRDA** supersedes provincial legislation and still excludes communities. Needs to be blocked. **Traditional Courts Bill** - will never cause unity in communities. Draconian laws that will ensure that people remain poor. Should be reversed (*Mphiwe Mashekoa*)
- Community with counter-claim against land awarded to Barokologadi Ba Ga Matoe. Land was used as a market. With the advent of Apartheid, the Molatedi community gave accommodation to Barokologadi Ba Ga Matoe. Fighting because people making money out of the land. Cattle have vanished. The chief of Barokologadi suggests that his community bought the land. But the other group says that government has given them the land. There is also a dispute about Molatedi dam, with Molatedi community claiming it as theirs, and alleging that Batlokwa only arrived in the area in 1821. They request the HLP to intervene before there is bloodshed (*See input by Tsholofelo Molwantwa, above*)
- Community got the land, but people have been taken off the land. Government officials do not perform the work they are mandated to do. People are afraid of speaking up against corruption for fear of becoming targets. Allegation that headman has a fake certificate and involved in corrupt activities with government officials (*Molatedi Community*)
- Land transferred in 2002. Bought farming equipment. White people came and evicted them. Informed the DRDLR. Mediator appointed. None of the equipment working, money going to people whom it does not belong to. Need assistance to get land back that was bought by the DRDLR. Starving whilst have own land. Threatened with death for approaching HLP. Want to use the land to make a living (*Mogorotsi Morole, Brakspruit CPA*)

- Complaint of harassment, arrest on trumped up charges, parents threatened. Have reported to Public Protector, police, MEC, Legal Aid, Municipality – all to no avail. Seeks HLP help with access to Public Protector (*Thabo Mkhondo, SANCO and RDP Ext 4*)
- Mogopa people evicted on 14 February 1984 and belongings taken. Taken to a place they did not want. With help, they managed to go to land such as Bethanie. In 1987 the Supreme Court of Appeal found they were evicted unlawfully. Land is being messed up. Government officials to be blamed (*Philip Maibute More*)
- Dispossession has been going on since the 1870s thus the 1913 cut-off date excludes. Government did not do anything to repeal the Bantustan Acts providing for tribal land. These are the Acts that oppressed the people. Nothing to enjoy in villages. No service delivery, Water Service Act not implemented. Traditional institution's money, who audits it? People in villages at the bottom of the priority list. 80% of representatives in the House of Traditional Leaders are illegal leaders. Given power by Government to override people's rights (*Kgomotso Khunong, Bafokeng Land Buyers Association*)
- Laws governing traditional communities should be consistent with national laws; at present people in traditional communities are not governed by the same Acts as the rest of the people of South Africa. CPAs were launched for people as a crucial mechanism to facilitate land ownership. There is now lack of accountability from the office of the DG, who should be intervening in the CPA cases. (*Tshepiso, Moses Kotane Municipality*)
- Community member complains that the family was not invited to participate in an Environmental Impact Assessment, though the land belonged to his forefathers. Got report from consultant drafted during 2014. Wrote to National Department of Environmental Affairs, but no response to date. Matter before Land Claims court at present. Family removed from land in 1936 to Waterval. Great-grandfather's grave dates back to 1912; the area once hosted Mzilikazi until his forcible removal in 1837. The family is struggling to get land back. Also, people are not benefiting from the land. Although there is a mine in the area, the community is not benefiting from this. The King is allegedly in charge of the mines. No accountability, since there are no meetings. King and trustees allegedly enrich themselves, whilst the beneficiaries of the land do not benefit at all. Request the HLP to remove the powers of the King. Speak with the Kings and explain that land is bought by communities, not the Kings. Kings do not have more power than the community, thus potential investors should speak to the community, not to the King. Finally, the presenter supports Bogatsu on the issue of the Molatedi Dam, which belongs to his community, and they are struggling to get it back from the clutches of Barokologadi who have in the past pointed guns at them (*Nicholas Samuel Letuki, Molatedi*)

- Former speaker of a municipality complains that once government gives the land, it leaves people on their own without any support. Also questioned was the capacity of Government to render services. Many government officials, especially senior officials such as DDGs and DGs do not work for people. They come to communities with briefcases full of millions of Rand and in some cases, officials tell rural communities that they were not hired by communities, suggesting that they do not account to communities, citing the example of a community hall in her area where the fees for its use are not used for the benefit of the people, but for the chief and his cronies. It does not benefit the community. In the same area a headman with a fake certificate is passing himself off as a king (*Emily Mantsere*).
- The secondary status of tenure rights for women and children staying on farms was highlighted. When the father – as the head of the household - passes away or is retrenched, women and children are often evicted from the farms. There are many cases of constructive evictions on farms, especially with regard to restrictions to access to water and electricity. Burial rights of farm dwellers are often not respected. An example was given where after successful negotiation for a burial on a farm, government officials came with mediators from Cape Town to facilitate the dwellers eviction from the farm. The laws are not being implemented to protect ordinary people; leaders and officials use opportunities to empower themselves (*Mogorotsi Morole*)
- The HLP was requested to assist many communities that have complained about their traditional leaders and the mining operations on their land. Many Chiefs are directors of mining companies and hold shares. It is extremely difficult for them to account to communities. They become accountable to mining companies instead. In the speaker's area the community acquired a farm. Since then, there have not been any financial reports to community about the activities of mining companies on the land. The companies are SAMANCO, SIYANDA, etc.; the chief and the Trust have been at the forefront of the community shareholding. They have become extremely rich, they built big houses, but the real beneficiaries do not get anything from the farm. Government denies ownership of mineral rights, claiming that the minerals belong to the state. With regard to the surface rights, there are game farms, which again do not benefit the community (*Modibedi of BaPhaahlane Ba Mantsere*).
- The powers of the chiefs should be limited. There has to be a framework that limits what chiefs can and cannot do. "Chiefs hold the key to the mines, when you want your child to work in mines you must call the chief who in turn calls the employer. If you are not his favourite, he has powers to tell mining companies not to employ you or your children". This is a combination of both corruption and nepotism, yet the land was purchased by the community and it belongs to the people and not the chief. (*Modibedi of BaPhaahlane Ba Mantsere*)

## DAY TWO

- **TLGFA:** This Act undermines the rights of communities whilst promoting the rights and place of chiefs in the modern South Africa. For example, election of 40% from communities and 60% from the chiefs (or 'royals'). A lot of speakers have indicated that communities have bought land in many instances. It therefore suggests that representation within the traditional councils should be reversed, i.e. chiefs must be given 40% while 60% goes to the community. Because the legislation grants chiefs 60% representation, they do not need quorum. They can take decisions and sign deals, without the inputs or a buy-in of majority of the members of communities.
- **Land Restitution Act:** Last year, the Constitutional Court passed an order in the case between LAMOSA and Parliament, with the DRDLR in respect of new claims versus old claims. The order was that new claims must be put in abeyance until the old are settled. Department was given 18 months. What is going to happen if the old claims are not settled? Is the Department going to open the new claims?
- **MPRDA:** The CEO's are looting resources in open cast mining. They are also contaminating water and polluting the air. The same companies from US and EUROPE. They are evading taxes and we are not aware of them. Poverty is rife in places like Marikana. There are a lot of mines, e.g. Maditlokwa. *(David Ramohano)*
- The matter between the Bakgatla-ba-Kgafela and the chief is commonly known. The office of Mr Bogatsu, which is killing CPAs in North West, is the source of the problem. He gets instructed by the Chief, especially in relation to land matters. The HLP should help to remove him. The chiefs and DRDLR do not understand the difference between TLGFA and the CPA Act. This is a major problem, and HLP should teach them the difference. When the community bring investors, the DMR does not want to help community with processes that would result in the empowerment of ordinary community members. But when the chief brings investors, they approve the plans without delay. With regard to mines, there is no involvement of communities. For one to receive a job, one needs to buy it, on land that one owns. Premiers go to chiefs, not to the people, except at election time. They must talk to the people. The land belongs to people, who are the ones that bought the land. The media should publicise these matters instead of attending only events organised by the kgosi *(Sophie Makgale, Bakgatla ba Kgafela)*
- Village (Masibudulu) forcibly removed to De-la-Reyville in 1971. At that time, the community did not have a chief and it lived as a people under leadership of community elders. The elders

of the community collected some funds to purchase the land. But the apartheid government dispossessed this community of their land. The community returned in 1991 but now they do not have title deeds for the land that they currently occupy. The DMR give rights to outsiders to mine on the land. The HLP must assist to transfer the land to the community with proper title deeds. The land involved is Goedgevonden and Welgevonden. The land has been subdivided into 3 portions by the government, which takes decisions about the land without consulting them as owners. The community also want their committee formally registered, (and not the chieftaincy), however they do not know how to go about the process (*Gadifele Tawana*)

- The community have PTO and not title deeds. In their view, PTO is much weaker and does not have equal status as title deed. The subdivision has sown divisions within the community, with some members agreeing with mines whilst others do not; some are given benefits and others not. Some of the people who came to the community were accepted after being evicted from other farms. These people have become part of the community, yet they now stand to benefit rather than the original owners of the land. (*Gadifele Tawana*)
- There is a dispute with the DRDLR and the Commission which have proposed financial compensation for the loss of land. DRDLR is offering compensation in the amount of R123 171 per household for those registered. However, the community has rejected the option in favour of restoration of land rights. (*Gadifele Tawana*)
- Law implemented does not say anything about women. New laws should expressly state that women can independently own land. Request that when a law is drafted, all people should be involved in the draft, instead of involving people after the drafting. If not, people will not understand, especially because of the language barrier. There must be a law that protects the community, land and their livestock. Ordinary people should be involved in the drafting of laws at drafting stage, not after the fact. This will promote understanding. (*Gadifele Tawana*)
- Community of 70 households purchased the farm known as Putfontein and it is clear who the owners of the land are. It is the people who purchased the land, not the traditional leaders. But the list of buyers has disappeared from the archives. There is a need to assess why only certain people have access to archives to get evidence as to who really bought the land. The DMR (Pieter Klerk) in Klerksdorp has been giving mining permits without consultation with community. Also, farm dwellers in Putfontein were included in the settlement agreements. At that time, an agreement reached was that government would buy farms and give them to the farm workers. It is almost 10 years since the agreement. The problem is that the community has inherited farm workers and is unable to move without government honouring their agreement. This was purchased land and government cannot not just impose people as



members of the buyer community. North West is rotten because of corrupt people; people thinking they are invincible. (*Baby Makgeleditse, Batlounge. She has made a follow-up approach to the Chair of WG2*)

- Group submission on behalf of the Bakgwali land claim. The community lodged a land claim in 1992, under the ACLA. Government said the claim was lodged before its term, so they lodged another claim in 1997, led by Commissioner Seremane. Community members were taught the laws and processes, attended workshops on the CPA Act. They started a process to draft a Constitution in 2001, adopted by the Community. In 2008, they obtained a court order for elections to be held in 2010. Speaker is chairperson of the Committee, but the challenge is that court order is not implemented by those that are meant to implement it, i.e. the DRDLR. The community request the assistance of the HLP to ensure that laws and court decisions are implemented (Ronny Monnye, Gender CC)
- Another submission on the Bakgatla ba kgafela matter. The major problem was the CRLR and the Chief. A claim to restitution of land rights was lodged by the speaker's father but the chief took over the land. The lawyer made a mistake during the lodgement of the land claim, citing Bakgatla ba Kgafela as a claimant instead of Bakgatla ba Mohlabe. Their claim was gazetted but was dismissed because of lack of evidence (because it should have been the Mohlabes who provided evidence of lost land rights). The presenter lodged a claim (Claim #136JP) to the chieftaincy in 1998 (Mmuthi Pilane)
- On 1 August 2009, the Community wrote a letter to the Kgosi Nyalala indicating that they were an independent community. On their own, they did not have a paramount chief, and the claim should be investigated in their name, they were not under him or the headmen of Kgamanyane Pilane. The presenter won a constitutional court case, which ruled that they should go back to the king to claim their belongings. Mogwase, the Commissioner responsible for the Mohlabe land claim was transferred to another office. They took steps to deal with the matter, stating that the chief had no say in their claim. They reported the matter to the presidential hotline. The office of the president wrote to Mafikeng, under Minister Molewa; and nothing was done. Presenter claims a bribery attempt (R5m) which he refused. Asks for intervention of the HLP to go to DMR and remove Bogatsu, who is "taking their money". (Mmuthi Pilane)
- Claims that the Government is stealing from Bapo ba Mogale, more than R800 million unaccounted for. Complaints have been submitted to the office of the Public Protector, who responded. Community members who point to things going wrong, or who demand accountability, become targets of victimisation. Presenter alleges he has been shot in the past. Also alleges that Government officials have shares in Lonmin – need Lonmin to come to the community to account for money paid by the company over the years. Problem with

Premier not listening to the community, as he is allegedly involved (Kgomotso Morare, Bapong ba Mogale)

- The speaker reported that her community has fought to enable Sol Plaatjie to go England to fight the land act. In contrast, the newly formed pieces of legislation such as the TLGFA do not empower the rural communities. Legislation should be reviewed to make sure that it addresses the challenges that confront the majority of South Africans. The second piece of legislation addressed was the Municipal Systems Act (which must speak about the chairpersons of bought land, and not just traditional leaders). The presenter alleges that she has evidence of Bogatsu's corrupt activities, which she can make available. Asks for HLP intervention (*Connie Madingoane – Molengwana? – LAMOSAS*)
- **Traditional Leadership and Khoisan Bill** – raised issue with clause 1(5) of the Bill, as it is discriminatory against the Korana people. The clause provides that the provisions of the Act that give recognition to a traditional or Khoi-San community and leader should not be construed as conferring upon such a community or leader any special indigenous, first nation or any other similar status. Mentions the 2005 UN special rapporteurs' recommendations, and a call for action with regard to the recommendations without delay. (*Moses Philander, Korana Cultural Group, representing Stanley Mathee*)
- There are problems with traditional leadership everywhere in South Africa. Chiefs are oppressing people. Pleas to the Premier, Acting Premier have all fallen on deaf ears. Only Dipuo Peters came visiting. The matter of Kgosi Dantjie, the presenter's father, is still unresolved. The provincial HTL is not working. Asks for HLP help. (*Gaodimale Timmy Lekwa, Batlaping*).
- **Issues raised from the floor included:** The Restitution of Land Rights Amendment Act 84 of 1995 - Slow pace of processing land claims negatively affects claiming communities. Low level compliance with sector transformation results in exclusion of communities from the mainstream agricultural farming sector. There is a lack of education regarding the rights and responsibilities of traditional leaders regarding the Communal Property Associations Act, 16 of 1996 There is a lack of involvement of traditional leaders in drafting of especially land law. Lack of monitoring and oversight of private sector activities that impact communities. Natural disasters serve as a deterrent to women to own land and become part of the mainstream agricultural sector (*Nozizwe Kapa*)
- Parliament needs to change the Constitution to ensure that people get their land back. SONA spoke of radical transformation, but no implementation. EFF has offered its 6% representation to implement land transformation. Parents evicted from Swartruggens, no invitation to attend meetings. Request HLP help.

- Makga Bobane community request panel to assist them to get their land back. Cannot have the land, as it is under traditional leadership. Government informs that you have to go through the processes to claim land. State farms up for leasing from DRDLR, but the procedure is onerous and ordinary people cannot access. Ordinary farmers should be included in land reform Board to ensure transparency. In the absence of selection criteria, farms are given to doctors and other career professionals, but are then not fully utilised. There must be a transparent process and the criteria have to be inclusive, giving priority to the poor, women and youth. The bulk of land in Rustenburg belongs to the mines. Should consider leasing the land to enable people to engage in agricultural activities (*Letlotlo Medupi*)
- The Panel should investigate claims which the Nama people have lost and prioritise their needs. The presenter spoke on behalf of the Nama group. He suggested that the current land acts have elevated and prioritised some tribes and not others. For the Khoisan Groups, they have been left out. Their claims have been side-lined. Many land claims have been lodged with enough historical evidence. But the process of giving the Khoisan the land, it is a serious problem, The Nama of NW lodged claims. The HLP is urged to ensure that the Commission investigates these claims and contact the claimants with the outcomes.
- People in Boitokong have no title deeds. People are demanding land, but once they receive it they will not know how to handle it. People need to be capacitated to work the land.
- Anglo Gold occupied the entire area of Kanana. The mines are all over. This company does not hire local people. The speaker is a member of public safety, in the Council: he looks after the youth. But the children of the 'foreigners' or 'outsiders' are being employed. The local people are not employed. Crime is rife because the local youth are roaming the streets, not employed.

### 3. LEGISLATION REFERRED TO IN SUBMISSIONS

- **ESTA; ESTA Amendment Bill; TCB; TKLB; Communal Property Associations Act 28 of 1996; CPA Amendment Bill; Mineral and Petroleum Development Act 28 of 2002; Restitution of Land Rights Act 22 of 1994; Restitution of Land Rights Amendment Act 84 of 1995; SPLUMA; Expropriation Act; IPILRA; Water Services Act 108 of 1997; TLGFA; Bantu Authorities Act 1951; Municipal Systems Act 32 of 2000;**

### 4. CONCLUSIONS AND RECOMMENDATIONS

- **The Communal Property Associations Amendment Bill should leave the powers and privileges of CPAs unchanged.**
- **CPAs should be empowered through capacity building to carry out their mandate successfully.**
- **Expedite the implementation of the Spatial Land Use Management Act (SPLUMA).**

- **Fast track the land restitution backlog.**
- **Release Government land for land reform.**
- **Fast track the passing of the ESTA Amendment Bill.**
- **Merge the DRDLR with the Department of Agriculture, Forestry and Fisheries.**
- **Acknowledge the Khoi language as one of the official languages. Assist the Khoi-Khoi to get funding to make the Castle a viable structure (12 months).**
- **The impending communal land tenure legislation must not erode the land rights historical customary land rights and legally secure title of rural communities (i.e. land acquired and owned in terms of the CPA Act and bought land owned in title by communities).**
- **Government must stop takeover of CPAs (i.e. putting CPAs under administration without a due process). Rather, government must focus on empowering CPAs prior to placement of CPAs on administration.**
- **Government must operate in terms of the mandate given to them by voters, which must be the result of proper public consultation in the law-making processes.**
- **The land restitution cut-off date should be extended by 50 years, to 1863.**
- **Government must provide support to the beneficiaries of the programme of land reform in order to ensure that the farms are used profitably and sustainably for the growth of South Africa's economy.**
- **Assist communities to de-register as traditional communities, remove so-called kings from the community's affairs. Intervention by DG required in all communities that have traditional authorities.**
- **TLGFA undermines the rights of communities whilst promoting the rights of chiefs. Reverse the 60-40 representation in favour of chiefs on traditional councils so that it becomes 60-40 in favour of ordinary community members.**
- **Make IPILRA permanent legislation.**
- **TKLB and TCB: these Bills have been introduced simultaneously. Put TCB in abeyance and deal with TKLB first, as doing it the other way round might have negative unintended consequences.**
- **Implement the recommendations of the Farlam Commission Report.**
- **Recommendations specific to the MPRDA:**
  - **s16(1)(d) – add the requirement that fees for prospecting applications must be paid to communities that own the land**
  - **s16 (c) - applicants must disclose how they are going to discharge environmental management plans and implementation progress, not to Department only but to the communities**
  - **s17(3) – the “reasons” must be supplied to the communities**
  - **s17(4)(a) – add “after consultation”**
  - **s18(1) - add “community”**
  - **s59(2)(f) – Composition of Board, add “members of community”**

- s59(2)(g) – add CBOs
- s59(2)(i) – add “3 representatives from land-owning communities”
- s59(3) - Deputy Chair must come from s59(2)(e)-(g) so as to involve community and NGOs
- s70-72 - delete
- Indigenous Khoi-San people should take possession of territory in the old Cape province on the basis of aboriginal title and first nation status. Enact laws to stop criminal mining industries’ theft of indigenous resources, and restore laws of nature, indigenous usufruct rights and residence rights.
- Involve communities before Parliament drafts legislation, and consult them in indigenous languages, not English

## 5. DIRECT PLEAS FOR HLP INTERVENTION

- Please help Barokologadi get their land back (Tsholofelo Molwantwa)
- Please help Koster community get their land back without imposition of CPA (Morei)
- Please look into consultation process in terms of MPRDA especially the tight deadlines (30 days and 180 days, respectively) on behalf of Bafokeng ba Motlatla and stop mining without community consultation (Mphiwe Mashekoa)
- Please intervene on the issue of Molatedi Dam before there is bloodshed
- Please help claimants to get a response from DRDLR (Godfrey Mashite Makalane)
- Please intervene in the matter of the Brakspruit CPA and death threats to presenter (Mogorotsi Morole)
- Please ask Public Protector not to be selective in choice of cases to pursue (Thabo Mkhondo)
- Please help Bafokeng Land Buyers Association get their land back (Kgomotso Khunong)
- Please look into unemployment in Ward 27 Rustenberg when then the community is surrounded by mines in a 45 km radius (Kaizer Moene)
- Please help Molatedi community get their land back and curb the powers of kings (Nicholas Samuel Letuki)
- Please help communities of Goedgevonden and Welgevonden to get their land back (Gadifele Tawana)
- Please help remove Mr Bogatsu at DMR (Sophie Makgale; Mmuthi Pilane)
- Please intervene in the matter of the Putfontein land buyers’ claim involving 70 households and missing files from the archives (Baby Makgeledise)
- Please help expel Anglo Gold from Kanana (Johannes Nyathela)

