

HIGH LEVEL 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

WESTERN CAPE PUBLIC HEARINGS, 5-6 December 2016

1. INTRODUCTION

The Western Cape provincial hearings were held at the His People Centre, N1 City, in Cape Town over two days.. On matters relating to land, the Panel heard from: Chief Melvin Arendse (Kei Koran; Green Zones Foundation); Ncedisa Gwilikana; Russell Johnson; William Mthungatha (Crossroads); Stanley Pappas; Ralph Burger; Rev Nosey Pieterse (Black Association of the Agricultural Sector); Leonora Solomons Jantjies (EFF); Jill Williams (Princess Vlei Forum); Matthews Lacky (Nyanga KTC); Cornelius Kok (Griqua Traditional House); Chantal van Vuuren Leibrandt (Women and Child, Ward 17); Grant Bellairs (Community Women Action); Linda Weaver; Bertha Veleko; Bongani Kakani Radebe; Thenjiwe (Crossroads). On each occasion these contributions were preceded by the standard briefing by the Chair of WG2, Dr Aninka Claassens, on the mandate of the group and the questions to which it sought answers.

2. OVERVIEW OF ISSUES RAISED

- The issue of land has been volatile since 1652. There has been no change despite 40 pieces of legislation. Divide-and-rule tactics are being used: Coloureds played off against blacks, against Khoi. Result is overcrowding in informal settlements, leading to ills such as domestic violence. Communities need to develop a unifying plan, without regard to political parties. (*Chief Melvin Arendse*)
- Laws are adequate; the problem is that of “indifferent” implementation by government officials who act like celebrities. (*Chief Melvin Arendse*)

- People who know their rights and are motivated should take responsibility to mobilise their communities, instead of leaving things to government. They did this during UDF days when leaders were in exile; there is no reason why that spirit should not prevail again. It is madness to think the solution will come from municipalities or the government. (*Ncedisa Gwilikana*).
- Legislation has not stopped farm evictions, which continue despite ESTA. Impact of current legislation is nil – even children are liable to eviction. In 2005-2006 there was a 15% increase in urban settlements as a direct result of evictions. There must be a moratorium on all farm evictions while an audit of farm dwellers is conducted. (*Russell Johnson*).
- CPAs cannot do much without financing. HLP should look again at section 2 of *TRANCAA*
- Crossroads issues: there has been no development in this settlement, which is as old as 1976. Development occurs only in Khayelitsha, Langa etc. Yet there is private land adjacent to Crossroads, rumoured to belong to a white man who lives in Constantia. Officials will not give a straight answer. HLP should help send leaders with backbone to talk to the community. (*William Mthungatha*).
- Langeberg issues: Mayor uncommunicative on housing issues, despite petition. There are 407 backyard dwellers in Langeberg, as well as 127 squatters. The constitution has failed the people of Langeberg. Land should be expropriated to give to the poor in line with the Freedom Charter. (*Stanley Pappas, EFF*).
- Winelands issues: The San had large tracts of land, but nobody has protected their rights in the same way as has been done for the Zulus by the Ingonyama Trust Act. Problem with legislation is that it favours only a section of the population; this democracy is only for the monied.
- District Six issues: Recommendations of 2009 ignored. 153 hectares had become 4 hectares despite tripartite agreement. Petition of 700 signatures alleged to have been “lost”, as was a subsequent one. An independent commission of enquiry should be held.

- The TKLB should be supported (but only if the Khoisan are not subjected to the rule of Griqua or Nama kings). All land between the Augrabies and Hesekwa Rivers is Khoisan ancestral land (ie, from south of the Breede River to the sea). (*Leonora Solomons Jantjies*)
- Princess Vlei is not serving indigenous peoples; land restitution should include the Khoisan. Similarly, Indian Ocean slave descendants not served by current policies (the City owns 24 parcels of land; not one is for these communities). (*Jill Williams, Princess Vlei Forum*)
- Act 20 of 1909 should be repealed as it strips land and authority from Khoisan people; Maximum size of land per person should be capped.
- Reliance on consultants for land redistribution should cease.

3. LEGISLATION REFERRED TO IN SUBMISSIONS

ESTA; CPA; Ingonyama Trust Act 1994; Land Act 1994; TKLB; Act 20 of 1909;

4. RECOMMENDATIONS

- **Declare moratorium on all farm evictions;**
- **Undertake audit of farm dwellers;**
- **Extend services to farm dwellers including education and training.**
- **Land should be expropriated without compensation and given to the poor in line with the Freedom Charter**
- **There should be an Independent Commission of Inquiry into mismanagement of the District Six issue**
- **Define Khoisan identity**
- **Implement UN Res 169(?) including Special Rapporteur**
- **Repeal Act 20 of 1909**
- **Cap the maximum size of land per person in RSA**

