

# HIGH LEVEL PANEL ON ASSESSMENT OF KEY LEGISLATION AND ACCELERATION OF FUNDAMENTAL CHANGE

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## KwaZulu-Natal Public Hearing: 20 October

### 20 October 2017: Morning Session

1. Opening remarks 09h00 – 09h05 (5 min)
2. Opening by Chairperson of the High Level Panel 09h05 – 09h15 (10 min)
3. Presentation by Chairperson / Representative of Working Group 2  
09h15 – 09h30 (15 min)
4. Invited categories of stakeholders presentations (Working Group 2)  
09h30 – 10h30 (60 min)
5. Members of the Public engagement (Working Group 2) 10h30 – 11h30 (60 min)
6. Presentation by Chairperson / Representative of Working Group 1  
11h30 – 11h45 (15 min)
7. Invited categories of stakeholders presentations (Working Group 1)  
11h45 – 12h45 (60 min)

**Professor Yvonne Muthien. Theme: Nation-Building. Working Group Three (34:00):** Good morning and most welcome to all of you. We are particularly pleased that so many people are taking our citizenship seriously, and sharing with us all the issues and challenges that you face as the country implements its legislation. So, to start off with, let us look at what we mean by social cohesion and nation-building by turning to the Preamble of our Constitution. Our Constitution enjoins us, and I read:

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To heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights.

To lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by the law.

To improve the quality of life of all citizens and free the potential of each person, and build a united and democratic South Africa in the family of nations.

And this is very important as we remind ourselves when we set out to create a new nation, a new democratic nation of South Africa. In this Working Group we ask for your input on the issues that divide us and the issues that bind us. And we take note that, after 22 years of democracy, we still have challenges of social cohesion and nation-building, because we have ethnic-based conflict which is very high and still continues. We have tensions with foreign communities that are living in our midst. There continues to be domestic abuse and gender-based violence, and we continue to be divided by race and class.

So, in turning to the first pillar of our Working Group, that is, Social Cohesion, we then ask ourselves the question: What is it that binds us as a community? What is it that divides us as a community? And we take note that practices found in the laws, customs, and traditional practices among us as the people can either serve to divide us or can serve to bind us. Those are the things that we would like you to reflect on and to share with us. So, specifically, we would like you to tell us which of those customs and practices either divide us as communities or which of those customs and practices build us as communities. And here we are thinking particularly around solidarity created by social organisations like churches and NGOs, and share your experience in terms of what you are doing to help us build our new nation or what others may be doing to divide us as a nation. We then ask ourselves the question as well: what policies in

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government or in municipalities at our local government level do we see that either divide us or bind us as a community? For example, the question is: are we all treated equally? Do the programmes that are intended to improve the quality of our lives; including the delivery of health services, education, food, water and electricity, housing and safety – do we all enjoy this equally? And if not, how can we build a nation if we do not have equal access to opportunities?

Turning then to the pillar of nation-building, we ask ourselves the question: what is it that binds us as a nation? So we move from the community level of social cohesion to the country, and what is it that binds us as the nation, that helps us to live out that promise in the Constitution? We say that the common vision, values, traditions and customs and practices can help to build us as a diverse nation as promised in the Constitution. And that notion that creates national pride, including those aspects sports, cultural events, our national symbols, our national holidays. Is that enough? Is that the glue that binds us as we build a new South African nation or are we not making or living up to that South African promise? So, we would like you to reflect on the laws in our country. Are they assisting in uniting us? Or which of those laws are continuing to divide us as communities or as a nation? And also looking at the policies of government or municipal government to see which of those policies continue to bind us or unite us as community and as a nation? And we would like you to also reflect on the role of Parliaments, either national parliament or provincial legislatures - should play in uniting us. We are a parliamentary Panel looking at the role of legislation passed over the last 20 years.

To conclude, as we start our reflection on social cohesion and nation-building, it is worthwhile for us to remember the words of the founding father of our democracy President Nelson Mandela when he says: no one is born hating another person because of the colour of his skin, or his background, or his religion. People must learn to hate. And if they can learn to hate, they can be taught to love. For, love comes more naturally to the human heart than it's opposite.

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We look forward to your inputs. And I thank you.

**Dr Aninka Claassens (41:30):** Sanibonani. So I'm going to talk about the inputs that we hope you are going to give us about land, and to say that we want to focus on three aspects of land. So, we want to find out from you about the current policies of government and the current laws of government that deliver the rights that are set out in the Constitution. The Constitution sets out the right of equal access, equitable access to land. It sets out the right to restitution for people who lost their land. And it sets out the right to security of tenure, whether on the farms or the communal area in rural villages, or in the shack land around the cities. So, are current laws and policies delivering those rights?

The second question is: are current policies and laws delivering in relation to racial inequality and the legacy of massive racial inequality, in relation to land, that we inherited from colonialism and apartheid?

The third question really is: are current policies and laws addressing the legacy of poverty and dispossession that we inherited from colonialism and apartheid? And we hope that through examples and stories that you tell us about your experiences you can help us answer those questions. Is current policy and law delivering the rights in the Constitution? Is it addressing the history of racialism and inequality? Is it addressing the deep legacy of poverty and dispossession?

The scope of our work includes looking at the social, economic, and political significance of the land question. It focuses on land redistribution, which is in the Provision of Land and Assistance Act, and the Communal Property Associations Act. How are those working? It focuses on land tenure reform. Whether on the farms, in the communal areas, or in the shack lands around the cities. We look too at the communal areas to see how the tenure reform legislation and other forms of legislation, for

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example the Traditional Leadership and Governance Framework Act and the Mineral and Petroleum Resources Development Act, how are all those laws working. Are they making people more secure or are they making people less secure? Then we look at land restitution, people who have laid claim on land they were forcibly removed from. How is that working in your experience?

And then we look at agrarian reform and development. When people get their land, how are they managing to farm that land? How is the land actually being used? And in particular we want to look at how the land reform laws address the legacy we inherited from apartheid of massive inequality between the former homelands and the rest of South Africa, and between the shack lands around the cities and people living in the cities.

So we are really hoping that people can talk about their experiences of land redistribution and restitution and on whether government policies are working and what your experiences are. We would like you to give us facts about whether land reform and restitution programmes have worked and to hand up any written submissions that would complement your oral submissions. And then we draw your attention to Section 25 (6) of the Constitution which promises that a law will be introduced to ensure that people who are insecure because of past discrimination must either get tenure security or they must get compensation if they were put on top of someone else's land. We hope that people will talk about tenure rights on the farms, the problems facing labour tenants, whether people are secure in communal areas and in urban areas. And we also encourage you to refer to any other laws that may be undermining your right to land reform.

So, going to high level questions on land reform, we ask: in what way has the implementation of different post-1994 land laws assisted or inhibited land redistribution and restitution? Have these laws been successful in addressing the legacy of racial discrimination? What improvements would you suggest if they have not been successful? Have the post-apartheid laws helped to address the problems of poverty

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and inequality in relation to access to land? If so, how so? If not, how not? What changes are necessary? We hope that you will be able to tell us so that we can include it to our recommendations to Parliament.

Have the tenure reform laws been successful in stopping evictions, and giving people legally enforceable rights? Has that worked for labour tenants? Has it worked for people living on the farms? And again, if it has worked, what worked? If it did not work, what is not working? Have recent laws and policies enabled black farmers to use the land productively to become successful farmers? And has land reform provided support to different groups and communities who got land through land reform? How has that impacted on people's livelihoods? And finally what are the strengths and gaps that you see in current law and policy? And how should Parliament address the gaps? So, we are hoping that you are going to come forward with many case studies, examples, and suggestions, and proposals. Thank you.

### **Dr Olive Shisana (47:40):**

Sanibonani nonke. I am going to be talking about Working Group 1 which is going to be looking at the whole area of Growth, Poverty, and Inequality. And under that we have a number of areas that we are studying, which is: wage inequality, wealth distribution and inequality, labour regulatory environment, as well as unemployment and poverty, and access to basic services. The second big area that we will be looking at will be unequal access to quality healthcare, quality education, spatial inequality, and skills development.

The next slide addresses the question of national statistics in so far as the employment situation is concerned. And it looks at official unemployment as well as expanded unemployment. A quarter of our people cannot find a job. 65.3 percent of those that were unemployed have been unemployed for more than a year, so this is a long-term problem. And of those that are unemployed, the overwhelming majority, that is 71 percent of those, are youth aged between 15 to 34. And 44 percent of those that were

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unemployed have been employed before. They are not in business, they are unemployed, they are struggling to make ends meet. Furthermore I just want to say that a third, that is about 33 percent of the 15 to 34 year olds who were not in employment, they were not going through an educational system and they were not going through a training programme. And so, that is a big problem.

The next slide tells us about the inequalities that continue to exist in terms of income. The measure that we are using here is annual household income, and we are looking at it from the different racial groups. And the data comes from the Census 2011, as well as the data earlier on for 2001 that was collected for Census 2001. And we can see from that slide who was having more money coming into their household. The White population has got more money, and that has grown from 2001 to 2011. The Black population, although they have doubled or more than tripled, they are starting from a very low base of R22,500 in 2001 to about R65,613 in 2005 but if you compare it across the races you do see that the majority of the population in this country still does not have access to that income that they need to improve their life.

The next slide is looking at spatial inequality. The slides were obviously taken from an aeroplane, looking either through google map or whatever satellite. And whatever they were looking through you can see that the majority of the people who are suffering are crammed in a very tiny place. And for those who have resources have plenty of space. And that you see in Alexandra versus Wynberg or Alexandra versus KC Park, or if you go to the Cape Town you look at Hout Bay and Imizamo Yethu. Two different worlds, they don't look like they are living in the same country. So, these are the spatial inequalities that we are looking at. These are the legacies of apartheid that we are dealing with. We we are looking at them 22 years down the line and we are asking, what is it that we need to do in order to change them because if we are going to talk about social cohesions of those communities it implies that we must change the spatial inequalities so that people can feel that they are part of one country, one South Africa.

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So we come into the next slide and we look at the laws. What laws actually frame the equality debate? We start with the Constitution, as the supreme law of the land. The Constitution indicates that there is a right of equality that cannot be violated under any circumstances. In other words, equality is listed as a non-derogable right, the right that every South African ought to have. And to give effect essentially to this essential constitutional imperative there is a legislative framework that underpins all of this, and that is the law of unfair discrimination, PEDUDA, and the Employment Equity Act. The prevention of discrimination and implementation of these laws are facilitated by several instruments. The first one that you would know about is the South African Human Rights Commission, and we also have the Commission for Gender Equality, the Commission for Employment Equity, and the Equality Courts. All of these instruments are supposed to be ensuring that the Constitution is implemented in so far as the question of Equality.

The next slide shows that, unfortunately, there is still persistent inequality. And it is manifesting itself on the basis of class, on the basis of race, as well as on the basis of gender. If we look at the data coming in from the World Bank, looking from outside globally looking at South Africa, they find that the top 10 percent of the South African population takes over 58 percent of the country's income. 10 percent of the population, 58 percent of the income, while the bottom 50 percent take about 8 percent of the income that is available. So, you can see there are massive inequalities that are continuing in our country. And when you look at it in terms of who earns what...the Executive Directors in South Africa earned 21 times more than the average employee in the country. And if you were to take into account the bonuses they earn at the end of the year, especially for casualising the labour, you will find that their earnings jump to about 36 times more.

The next slide is looking at the employment equity legislation. This legislation aims to achieve equity in the workplace. That is the Employment Equity Act 55 of 1998. It aims to promote equal opportunities and fair treatment in employment through the elimination of unfair discrimination. And it also implements affirmative action in order to redress the



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disadvantages in employment. Some people argue that affirmative action is discriminatory. But what it does is it tries to correct the discrimination that existed under apartheid by ensuring that at the workplace there are opportunities for everyone, including those people that were disadvantaged before.

Then we have the next law that we need to look at, that is the Commission for Employment Equity. That Commission for Employment Equity comes out of the law I have talked about. It is a statutory body established to monitor the implementation of employment equity, and in addition to that it advises the Minister. So here is the 16th report that was released on about April of 2016. It shows that there are still major problems in the sense that, in terms of managerial levels Whites occupy 69 percent of the positions, which is more than six times their economic activity in the population. The Africans occupy 14.3 percent of the positions and Coloureds 4.7 percent of the positions and both of them are underrepresented. So, these are some of the challenges that we have. The other challenge that they list there is that of disabled people. Here we are seeing a decrease in the representation of people with disabilities in terms of employment.

On the next slide, we look at the laws that were passed to address inequality in the workplace. Unfortunately, when it comes to promotions, we see the same trends as we have seen before, that the bulk of the promotions are occurring in the White population, at 55 percent. For the Africans it is 22 percent. And the Asians/Indians, they are overrepresented when it comes to that. When it comes to the question of foreigners, they take a small chunk of about 3.6 percent in terms of promotions. So, the inequalities are continuing in a number of ways.

So we come to the next slide, looking at the skills gap. We have massive gaps in skills in our country. If you look at the data that we have between the Whites and Blacks, and I have simplified this by just looking into the two groups, and the issue could be addressed also for the Coloured population and so forth. If you look at the data for 1994

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and you compare that to 2014, over that period Africans have just increased their skills base by about 3 percent only. In the White population they have increased it by 19 percent. So clearly, the gap is widening. Things are not getting better. They are getting worse in terms of skills despite the fact that we have so many CITAs that have been setup in our country. We need to be looking at what legislation do we need to be putting in place in order to improve this issue on the skills? But the skills are also related to the matter of education, so the next slide is looking into the question of education. And the Constitution is very clear on this, and I quote: Everyone has a right to basic education, including adult basic education, and to further education which the state, through reasonable measures, must make progressively available and accessible. And that is Chapter Two of the Constitution. Now, we see the unrest. People are concerned, students are concerned, and parents are concerned. Students are demanding free education and no fee increases. They are demanding it because they have seen it in the Constitution. They want to have free education, but at the same time the government is saying that free education should be made available to all those who come from families earning no more than R600,000 a year. Some are arguing that this is progressive realisation of the right. Others are saying no. It is not enough. So, the debate is going on. Should there be a law that requires the prepayment of quality education for all, similar to that exists in other countries with similar insurance where it is based on a prepayment system? We need to look into those issues and see, are these possible solutions we should be addressing?

Now, education is good to have at all these universities. But we also have to look at the quality of education which the students are raising as a concern. So, the next is addressing some of those issues on the throughput rates. If you look at the data that comes in from the Council for Higher Education in 2013 and also the Human Sciences Research Council, which has looked into the skills development report, they say a quarter of students who are in contact universities, in other words where they go in and they are taught in a classroom, the graduation rate is very low. Students do not complete within the timeframe that is required. If the degree requires three years to

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complete, they don't complete in three years, they take longer to complete. This means that more people are unable to come into the university, because the others are still in the system. And if you look at the admission rates by the areas that grow the economy, areas that help us to reduce poverty, you find that the situation is bad. Bachelors of Engineering, only 23 percent of them completed. In other words, those who went into the programme only 23 percent completed. Bachelor of Science reflects the same percentages, Engineering Diploma is worse at 5 percent, Science Diploma 14 percent, for year Commerce Degree 23 percent. What is happening is that the quality of our education is not very good. And this does not start at a university level. This slide is basically showing that it starts very much at an early level. Look at that slide which gives us information about it. Are the Grade 3 students performing at an appropriate level? Do they, for instance, get 50 percent of their marks? And they found that if you look at it according to the poverty levels, at certain quintile levels the things are not looking good. Only a small percentage of them are performing at the level of Grade 3. Now you can imagine what is going to happen when they come into the university, the same problems that you have seen at the primary school level you are going to see them at a university level. So, the issue is we have to look at the level of education comprehensively.

The next slide is showing that 16 percent of all of those people that have started their Grade 3 education are operating at that particular level. Now I am coming to the issue of health insurance, which might be one mechanism to reduce inequality. First we want to address the question: can the National Health Insurance eliminate disparities in financing the services in the private and public system. About 8 percent of our GDP in South Africa is spent on health. Half of that is spent on between 16 and 20 percent of the population. That is, those that have. The rest of the 84 percent, 80 to 84 percent, have to use the limited amount of resources that are available. Hence the quality of the healthcare system is not good because the public healthcare system is underfunded, under capacitated, and it lacks sufficient infrastructure to be able to provide for healthcare to the majority of the population who are poor. The private sector is well-

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resourced, as I have indicated. But also we should look at the question of, can the National Health Insurance help? The White Paper on National Health Insurance says, the NHI is also based on the principle of social solidarity. That implied cross subsidisation of the poor by the well off, the old by the young, and the sick by the healthy. Given the history of this country of the racial divide which is currently experiencing socio-economic divides, it is necessary that the National Health Insurance be based on this principle of solidarity in order to promote social cohesion. So, we can indeed find the solution that brings us all together by introducing National Health Insurance in the country and rolling it out.

The next point is still the question of NHI being probably able to significantly reduce inequality because the poor tend to postpone seeking needed healthcare while the rich tend to overuse those services. So you have this imbalance in our system. The affluent 20 percent receives 30 percent of benefits while the need is only 10 percent. The poorest 20 percent receive only 13 percent of the healthcare benefits while they have a greater need of about 30 percent. So, free healthcare at the point of care for all is going to end these disparities.

The next slide tells us that South Africa does need a National Health Insurance that is based on a single payer model that integrates the public and private sector, and provides universal coverage regardless of the ability to pay, regardless of the race of the person, or the age, the sex, as well as geographic location. South Africa needs a healthcare system that is fair and sustainable, and the current model is not. A lot of that comes from the White Paper on the National Health Insurance. We do need legislation to introduce NHI that is going to reduce inequality.

Now I would like to ask you some questions that we would like you to answer. We want you to look into what laws should be amended in order to promote employment. We need to look into the laws; which ones do you suggest should be amended or written in order to reduce these inequalities that we are seeing? We want you to tell us which laws

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should be amended or prepared to enable equitable distribution of wealth in our country. We want you to help us to understand whether there are any laws that should be amended or developed to reduce spatial inequality; that is the inequality of living spaces that were created by the apartheid system. And then which laws should be written to provide for quality free health care as well as education at the point of service. I would like to thank you very much.

**Paul Kariuki, Vice Chairperson of KwaZulu-Natal Civil Society Coalition (1:10:10):**

From the Civil Society Coalition in the province, our submissions are in two main areas. The first one is on the Working Group 1 on issues relating to inequality, poverty, and unemployment. We feel that there are laws that have been established that have been good so far as to bring some normalcy into the situation, for example, the introduction of social grants, they are contributing into arresting the frontiers of poverty. We have also seen the gradual increase of beneficiaries from 18 years and above being cushioned and protected, especially those who are from poor families.

However, we feel that there is some negative impact of these laws, especially where social grants are concerned. They are still contributing to the situation that is prevailing at the moment, without necessarily reducing poverty in the families that are affected. We feel that there is no clearly defined exit plan for beneficiaries who have reached a certain age or who have gained employment. What is also worrying is corruption that is taking place in certain departments that are designated to handle these grants. We feel that, from our point of view from the civil society sector, we are not seeing enough impetus from government to arrest the perpetrators and those who are involved in such. We also say that we have a view that the social grants are creating some kind of a dependency syndrome and not really correcting the situation as it should be done or envisioned by the legislation.

So, our proposition and what we think should be done. We feel that Social Assistance Act 59 of 1992 should be reviewed to reflect the current social conditions in the country.

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We also want to say that the Basic Income Grant, on the part of government, should be done on the responsibility of an income grant so that it can also be used to enhance aspects such as skills development on the part of the population that is very poor and not cushioned from the economic shock that we are experiencing. We are also proposing that the government should consider providing food coupons to these poor especially those in rural areas and food supplies be made available at government warehouses with a coordinated effort from the government departments. At the same time we are also asking that there should be a focus on the informal economy, especially cooperatives and Small and Medium Enterprises to create job opportunities next to areas where people live. And lastly, we are saying that the National Empowerment Fund Act should be reviewed so that it can make funding more easily accessible to SMEs and Cooperatives, especially in the rural areas. We feel that that the government has done some work in this direction but that is not sufficient enough to move the majority of the population into places of economic advantage. We are also asking if the government...a wealth distribution and the inequality tax, proposing that the Income Tax 58 of 1962 be should be replaced by other legislation. We feel that the wealth tax that was proposed prior to 1994 should be revisited and a law should be introduced that would provide for the taxation of the rich to subsidise development programmes for the poor and previously marginalised. We believe that this Act should also aim at bridging the gap between the rich and the poor and arrest the outflow and syphoning of capital offshore. We believe that the Cooperatives Act 14 of 2005 should be reviewed. Our view is that the current model of cooperatives as espoused in the Cooperatives Act is neither feasible nor sustainable, especially as experienced by the marginalised Black people. The emphasis is more on the business aspect of cooperatives rather than on the social entrepreneurship and community development. We feel that the number of people starting a cooperative should be increased so that more people could benefit. Alternatively, two or three types of cooperatives should be considered in order to accommodate the needs of different groups. I thank you.

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**Dominique Collate, Chairperson of KwaZulu-Natal Business Council of Chambers**  
(1:17:06)

**Dr Zanele Bikitsha, South African Medical Association, KwaZulu-Natal:**  
[Paraphrased for clarity and flow] We will be presenting consolidated proposals in Gauteng because there is a number of legislation that we wish to address. I will address the issue of the National Health Insurance. We have a few areas of concern based on the White Paper on the National Health Insurance. There was a trial general practitioners contract which did not work. Those doctors are coming back into the healthcare system and are struggling to get reabsorbed into the public healthcare sector. One of the considerations to be made related to costing, overtime pay for doctors, and how that relates to GP contracting. In relation to provision of basic services, the question is: what is the package of care that is going to be provided? The public must not think that the package is going to include everything. The package must be negotiated with stakeholders to agree on what the standard package will consist of.

Another consideration should be on the funding model, because it now appears that the state employees are going to be the major source of funding. How will the private sector come to the party? Those are some of the fundamental issues for consideration in order to ensure that the NHI is implemented successfully. It must be considered that the private sector healthcare facilities are concentrated in the metropolitan areas. How the population in areas that are outside the location of the private sector facilities are going to be serviced is something that must be considered. That is where we see the importance of further deliberations by stakeholders, because access to healthcare is a right. Some people have been looking at it as a budgeting issue, but it is a fundamental human right. And without it you have no population to speak of that can contribute to economic development. Thank you.

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**NAFCOC (1:20:07):** As NAFCOC we are not focusing on any specific legislation. We are sure and satisfied that legislation passed over the years is serving the purpose and is commendable. But we have serious concerns about lack of implementation, not only when it comes to business and economic development, but we observe that in rural areas there are serious challenges that bear testimony to the concerns. As NAFCON we had an opportunity to visit almost all traditional leaders in the province to focus our attention to problems and challenges facing the business sector as well as various institutions in rural areas in order to promote business opportunities. We note that current economic development initiatives are not paying sufficient attention to skills development. We would like to see a shift going forward towards an approach to implementation of policy and legislation that emphasises skills development.

Also, we observe that development programmes aimed at small businesses in order to empower them to compete with large businesses as well as foreign businesses or foreign nationals running businesses in the country continue to pose serious challenges for people in rural areas and townships. We observe that local businesses run by Black businessmen are closing. We require laws to protect us as citizens. The proliferation of shopping malls built near and within our communities is another source of concern as we ask ourselves: who are the owners of the shops in the shopping malls? Where are the laws protecting us as local communities from the economic muscle of multinational companies setting up and operating businesses in our communities? We are aware from the economic and financial statistics that these multinational companies are raking huge profits at the expense of local economic development, local businesses, and local communities. As NAFCOC we are concerned about the situation and are calling on government to introduce policy and legislative framework to protect us as citizens. Our members have a long history of running small businesses in local communities, and our organisation has as history of promoting local economic development. Now we observe that current policies and legislation and they the way they are implemented are falling short of creating a conducive environment for promotion of local economic development.



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Another focus should be on education of local communities, including youth in schools, about entrepreneurship skills. The skills should include farming, entrepreneurship and starting up businesses in other sectors of the economy. We call for building infrastructure in school premises in order to run educational programmes that involve business people and those in the manufacturing sector and these programmes should not be left in the hands of teachers, most of whom have never been exposed to running a business. These programmes should be a stop gap for those learners who cannot be admitted in universities or who do not intend studying at universities.

We find it difficult to get finance from banks and other finance institutions. Land Bank, Ithala Bank and other finance institutions are not friendly to emerging and small businesses. It is propaganda to say they are providing us with support to participate in the mainstream economy. For all we know is that some finance institution are funded with taxes but when citizens apply to access funding they are met with hurdle after hurdle that keep them outside of the formal economy. We end up not seeing the difference between these government-financed institutions and commercial banks.

Lastly, we struggle with access to markets and even those who come with fresh produce are offered ridiculously low prices. This is a glass ceiling that keeps Black farmers away from the formal economy. The government's Radical Agrarian Social Economic Transformation must be implemented without delay so as to change the exploitation of farmers that is taking place at the moment because we have observed that when farmers want to supply fresh produce to government departments such as the Department of Health, they must go through an agent who offers to buy at a very low price and then sells to government departments at an inflated price. There are people on farms who were born and bred on farms. When laws are passed and when land restitution programmes are implemented, these people must not be treated as mere farm workers or as people who have no claim on the land. People on farm must be given full rights. Thank you.

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**Themba Mzimela, University of KwaZulu-Natal (1:29:05):** I will first speak about challenges we face in land reform, especially the challenges faced by people in rural area. The government has agreed that the willing buyer willing seller model is not working because those who have no money to buy the land are excluded from land ownership. The current government land restitution programmes are marred by corruption, where you find corrupt government fighting over small patches of land that are supposed to be handed over to communities. Some community members who lodged complaints are kept in the dark by government officials who fraudulently alter the names and numbers of people on the beneficiary lists. Some people who are supposed to be listed in court proceedings are deliberately and fraudulently left outside the process in order to dilute their claims or in order for corrupt government officials to personally benefit from the land claims.

I was born in Empangeni, but my work has taken me to all corners of KwaZulu-Natal. There is a place called KwaMhlabuyalingana or Emkhanyakude District Municipality. That land was rich in goats and cattle, but people in the area are unable to sell livestock anywhere outside the area because the livestock is said to be infected with foot and mouth disease. Even though livestock farmers in communal land vaccinate their livestock, they are still barred from selling or transporting livestock outside the area. Someone had bought and paid for cattle from the area for lobola but had to wait for over three weeks for laboratory tests done in Pretoria to confirm that the cattle were free from diseases.

Government keeps making promises that it is going to build infrastructure in the area to provide access to markets, but up to today the promises have not been fulfilled. Small farmers in the area are not getting good cash value for their produce because of lack of government support. In Pongola local farmers were advised to switch from maize crops to pepper, and when the harvest was ready they had no market to sell to and those who had advised them to switch to pepper were nowhere to be found. Fortunately I

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contacted someone from the provincial Department of Agriculture who agreed to find a buyer for only the harvested produce. There was no plan or buyer for more pepper in the fields that was not yet ready for harvest.

I also wish to touch upon policy and legislation and say that I agree that most of these are progressive. However, as noted by previous speakers, there is a huge gap when it comes to implementation. What is even more saddening is that in land reform even some Deputy Ministers are not well informed about what is happening with land reform, and yet they are leaders for programmes on land reform. This is one indication that we still have a long way to go to close the gap between policy and legislation written on paper and implementation programmes that must translate these into reality. Another indication of the wide gap is the high number of litigation over land reform processes. To the extent that court decisions are against government, public perception is growing that government does not have a handle on land reform programmes.

On the question posed by my sister Yvonne, asking what things divide us as South Africans; the media is dividing us by publishing things that divide us. As a country and as a nation we can do with media that promotes nation-building. Thank you.

### **Dominique Collete, Chairperson, KwaZulu-Natal Business Chambers Council**

**(1:37:07):** Our submission focuses on Working Group on Land Reform, Restitution, and Security of Tenure. We also focus in particular to the National Water Act 36 of 1998. Although this does not fall under this Working Group, it ties in neatly with poverty eradication and inequality. This submission is made with a view of business that the accelerated infrastructure development programme has a direct impact on in meeting the requirements of land restitution and poverty eradication. The implementation of the water use licence application governed by the National Water 36 of 1998 is crippling infrastructure development and over economic development in KZN. The extensive wet slopes seepage found in KZN is a unique wetland characteristic and the current process of Section 21(c) (1) licences is severely constraining advancement and economic

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development in KZN, crippling the municipalities' mandate to provide infrastructure and basic services to the communities, as well as private businesses in providing direct foreign investment and providing job opportunities. The extensive water requirements for every project in KZN are causing tremendous delays in project implementation. The process is a lengthy 300 days' time before receiving approval, irrespective of the type of water utilisation. The Department of Water and Sanitation is also short-staffed to deal with these applications at a provincial level. All water-use licences must get specialist input. The comments and engineering comments from the Department of Water and Sanitation national office is causing further bottleneck delays. In some cases some projects do not trigger any environmental sensitivity in terms of NIMA, and therefore require no environmental authorisation. But requirements are imposed due to the infrastructure being situated within 500 metres of the water course. Although the NIMA requirements and EIA processes have recently improved with the recent amendments, there are other processes that have created additional requirements with the sluggishness of the EIA processes we saw a few years back. It is the view of businesses that processes duplicated by the NIMA must be reviewed and amended.

One of the examples is the timing of the public participation requirements, which is 30 days in the EIA processes and 60 days in the other processes. This immediately sets the two processes apart with limited ability to share public meetings to make submissions. That ends up leading to processes being costly, and above all can push timeframes for development up by years. Water use in South Africa is managed through a water use registration process which provides that every water use must be registered through a regional office or an established water catchment agency. A water use as defined in Section 21 must be licenced, unless it is listed or an existing lawful use under general authorisation or if the relevant authority waives the need for a licence. The NWA define a watercourse as (a) a river or spring; (b) a natural channel in which water flows regularly or intermittently; (c) a wetland, lake or dam into which, or from which, water flows and (d) any collection of water which the Minister may, by notice in the Gazette,

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declare to be a watercourse, and a reference to a watercourse includes, where relevant, its bed and banks.

Duplicated processes. Obtaining water-use licences may be a complicated and expensive and a time-consuming exercise. A general list comprising of a specialist style report must be submitted with a technical report for every application. These include master layout plans, wetland delineation, 1 in a 100 year flood line designed in a water routing structures, a copy of the basic assessment or EIA report, a copy of an authorisation issued by NWA, approved EMPs, storm water plan, hydrological investigation, work methods statement, wetland rehabilitation report, monitoring plan, conservation and management plan, landscaping plan. All these reports are duplicated in an EIA or assessment review in terms of NIMA.

The regional specific issues are the timeframes for water use is 300 days from inception of the application irrespective of the nature or complexity of the application where generally the issuing of the licence takes about approximately one year. KZN DWS regional office is the entry point for all water use authorisation agents, but only the national office may issue the water use licence that has to be signed off by the Director General, which can take up to three months just to obtain the signature. The technical assessment of the water use authorisation application is undertaken by numerous reviewers and other relevant government departments for their input and recommendation. Currently, legislation prescribes that a water use licence be obtained for any activity or development proposed in the 500 meter radius upstream or downstream from the boundary of the wetland or any water resource near a flood line, riparian area, or whichever is the greatest. Although the new general authorisation regulations which were gazetted in September 2016 replace the need to apply for a licence for water uses within the limits and conditions of the water authorisation, the decision of the general authorisation will only follow once the extensive submissions have been made. It is evident that contrary to the draft that the enabling conditions for public and private development, the water use licensing process and its design follows

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an extensive requirement of a one shoe fits all and execution, lacking of consideration of a KZN wetland characteristics is denying water licences and thereby slowing down development programmes.

Recommendations. That the process be reviewed and the following considerations inform those deliberations. The consideration of the 500 meter upstream and downstream from the boundary of a wetland or within the 100 year flood line be waived or the 32 metre buffer area be used as per the NIMA requirements. The duplication of the application requirements and processes be reviewed by removing some requirements to the EIA assessment requirements with a view to restructure resources within the two departments. Review the processes to synchronise the duplication processes in the timeframes. A professional body be constituted similar to the engineers where professionals are regulated in terms of their expertise and in terms of their experience and take responsibility for reporting and implementation. The department would merely have an oversight role. We make ourselves available for any further discussions and thank you for the time.

**Edwin Mkhize, COSATU (1:46:59):** COSATU welcomes and supports the appointment of this Panel. South Africa has adopted progressive policies and legislation over the past 20 years. However these do not receive the full attention they require from both government and the society at large. Sadly, government departments do not appear to be concerned by this massive challenge. COSATU hopes that the Panel will be a critical step towards addressing this challenge. The higher education crisis confirms how important the task of the Panel is. Lack of implementation and assessment of policies results into the crisis we have. COSATU will be submitting a comprehensive submission in Cape Town, and this is just a prelude to that.

We are concerned by high levels of unemployment. The democratic state did not create this crisis but inherited in from the colonial and apartheid legacy. We acknowledge progress made towards provision of access to free healthcare for pregnant women and

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children, social grants to millions of people, free access to basic education, public spending on higher education to increase the number of new enrolments, provision of housing and basic services to over 90 percent of the people in the country.

While acknowledging these achievements, we know that much must still be done. We will never enjoy full freedom while the majority of people have no decent jobs. The school system is still poor, teachers are overstretched and work in violent conditions in schools. Tertiary education is unaffordable to the poor. Our workforce remains badly unskilled. The SITAs are not equipping enough people with skills to enter the job market. HIV infection levels remain very high. TB levels and alcohol abuse levels remain very high. Most of the policies and laws are correct but are not implemented or are under resourced. The government is taking too long to implement a comprehensive social security plan. The public healthcare infrastructure is badly resourced. We support the plan to introduce the National Healthcare Insurance. Our education must be made free for those coming from the working class and middle class families. Such access should be funded through a ring-fenced form of tax that is progressive.

The spatial planning continues to entrench apartheid legacy as new houses are still being built away from places of employment. We reject the blaming of trade unions for the unemployment crisis as the progressive labour laws exist to protect the rights of the workers and regulate relations in the work place. We vehemently oppose labour brokers. The Department of Labour and the Commission for Conciliation, Mediation, and Arbitration are not doing enough to assist workers as they claim that there do not have enough capacity to attend to all the complaints lodged with them or to conduct workplace inspections. This situation is not helping anyone. We want a ban on labour brokers. Youth wage subsidy degrades salaries, discriminates elder workers, and only benefits employers. The Labour Relations Act regulates relations but workers are treated unfairly by employers especially in cases where employers decide to review a matter. Lastly, the retrenchments should be a last resort but employers retrench daily as a first resort. The Department of Labour is not doing its job to protect workers facing

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retrenchment. On the issue of land we want to see more being done to protect farm workers. On nation-building we have to continuously improve all people's lives.

**Pastor Sibiya (2:02:27):** My problem is not big, and it is not long. I request that the powers of traditional leaders not be usurped by the Ingonyama Trust that is now pushing us out of the land as our land is now under threat of being taken away from us by the Ingonyama Trust. That is all I want to submit.

**Mbhekiseni Mavuso, from Melmoth eMakhasaneni (2:05:33):** Our mothers were very creative when naming places. Whenever they were suspicious of a place they would name it KwaMalandahlwa or KwaMntanamwendelephi. South Africa now has lots of laws. It is confusing. Like now when you are in town you cannot even find public toilets to use without having to pay money. Everything costs money. The price of bread is too high, even though all the ingredients to make bread are available here in South Africa. Within no time a loaf of bread is going to cost R20. We pay for water. If you have no money in this country, you will soon have no water to drink. What is most concerning is that we have become victims of development, victims of democracy. When development is introduced, ordinary people are forced to step out of the way to give space for development. Ordinary people are moved from the land. Even when a road is to be constructed, ordinary people and their houses are removed from the land. When shopping malls are built, Black people and their houses are moved. When big business such as mines come to our communities, in the name of investments, and without any consultations with local communities, ordinary people and their houses are moved off the land so as to give way to development.

As ordinary people we have become movables who are moved anytime and all the time there is development. There is nothing that we own and that belongs to us. Water belongs to the government. When we speak up against logging and removal of vegetation, we are told that plants belong to the Department of Environmental Affairs. We own nothing. We are told that minerals and petroleum do not belong to us, they

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belong to the government. We are citizens that own nothing. We live miserable lives because we are told that the land we live on does not belong to us but belongs to the Ingonyama Trust, as the previous speaker just said. We don't even know where the Ingonyama Trust lives. When you are a resident in a community you are told that you have no land that belongs to you, that the land belongs to a traditional leader. Lately a traditional leader is a traditional leader based on the claim over land ownership. As a citizen you have no land that you own. When decisions are taken about the affairs of the community you belong to, about the nature of development that must occur in the community, discussions are held with traditional leaders. Only and when a decision has been made with a traditional leader, it is as if community members have been consulted and are part of that decision.

Where is our land? Where are we going to settle peacefully, as we are forced to move every time there is a talk of development? The question we are here to ask is: those of you responsible for land restitution and land reform, what are you doing about the fact that we said we want our land taken away from our forefathers? We never said we want farms. The fact that those occupying the land have turned it into farms is not our problem and has nothing to do with the fact that we want our land back. Why is it that when a person asks to be given back what belongs to them, they are asked what they are going to do with it? If it was your sedan car that was stolen, assuming that the land is a car, and later on the stolen car is recovered, and you go to the police station to claim it back, you find out that your sedan car was converted into a van, and the police tell you that they cannot help you with anything and that you must negotiate with the thief, and the thief tells you that because I converted the sedan car to a van you must pay for costs of converting it, and he tells you that he has been using it to carry passengers on a certain route and that if you have no intention of using the car for that purpose you are not going to get it back. The thief continues and say they found the car with little amount of petrol the day I stole it and so reimburse me for the petrol I poured in it. I ask a question: what kind of a country is South Africa where when you claim for your land or when you claim for communal land, the questionnaire must be answered in

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English? When even the space provided for in the questionnaire for you to provide details of the land you are claiming is very small and you are forced to identify the land by the name given to it by the person who forcibly removed you from it.

We live in great hardship in South Africa. We are disposed of our land by development, by the mines, and we get no compensation or benefits out of the so-called development on our ancestral land. We are not consulted. We have turned into non-entities with nothing, and yet we are the rightful owners of the land. We don't have certainty as to what is going to happen to us and our land. And so we ask the Panel to consider our plight because even the White farmers whose interests are so protected are not serving local markets with their produce, instead they are producing for export markets. We only get about 23 percent of their produce sold to us at inflated prices. Let us put an end to export of food that is threatening national and household food security. Let us put an end to evictions from farm land.

Lastly, I want to touch upon sad stories because when I see you sitting like this you remind me of my grandmother Masikana from Rietvlei near Greytown who was killed by a White farmer. He ran her over with a motorbike. When the case was heard in court the doctor's report said she died due to being overweight. I remember that in Enkwalini a White farmer shot at two school kids who were eating sugar cane, Nkosi Mpanza and Vukani Shongwe were killed by the White farmer. When the case was taken to court we were told that a White man cannot be arrested. Grandmother Masikana in Greytown was killed by that White farmer who thereafter killed Masikana's son Bonginkosi. Even then we were told in court that a White man cannot be arrested. When a White man shoots and kills a Black person as though shooting a baboon or monkey or a dog, on the official medical certificate it will be written that the Black person has died due to AIDS, or alcohol abuse and your liver was damaged.

**Thokozani Ndawo from Babanango (2:14:01):** The area of Babanango is vast with many wards but does not have a municipal council in the area. The Municipal

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Demarcation Board has divided the area of Babanango into small areas under other municipalities. It is rich in natural resources; it used to produce crops for national markets. I would like to add in my introduction that the policies and laws governing land including the ITB Act passed before 1994. As the citizens were are not aware how this law works. Babanango has for a while been an area occupied predominantly by farmers and farm workers. There were no fights and conflicts, the institutions of traditional leadership existed, but there were not fights. There was as an exodus of White farmers in the area in the early 1990s. Then the land use changed to timber plantations under Mondi and Sappi, without any consultation with local communities. Community members were given 14 days to leave the land without knowing where to go. It was a time of great hardship. It transpired during the 1990s that there was going to be foreign investment on game farming, and as local communities we were never consulted on any of the decisions made. We just saw erection of high fences, removal of grazing land camp fences, and introduction of wild animals. And even when a meeting was called it was not about consultation. It was about telling local people that they must not interfere with the animals and that they must stay away from the fence. The meeting was convened by traditional leaders at the time and community members were told not to question the decision to fence the land and introduce wild animals because that was development. There were problems since then as we were never told what benefits we will get as community members. We suffered a lot as communities inside the fenced land because some of the wild animals infected our domestic animals with diseases. Later on we found out through NGOs that the Ingonyama Trust Act protects local communities. Section 2 (8) specifies that rights of land owners must be respected and protected.

Also, traditional leadership in Babanango is different. There is history of cooperation by traditional leaders in the area. Lately now that there are tenders the cooperation is no more because there are plans by COGTA to impose municipal councils on institutions of traditional leadership. There is a lot of killing recently, to the extent that in one instance three people were killed while attending a funeral. This situation that occurred in recent

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years has left over 50 widows, houses torched. Senior traditional leaders formed a committee to speak with government in order to find solution that will stop the fighting. There are two traditional councils in Babanango that have coexisted for many years. When COGTA imposed councils that process development, a lot of problems and strife started. Even the regent was stripped of her powers. The court building in the area is closed since February 2016. There is division in the community. Dr Nsibande was called to intervene from COGTA national office but the matter was not resolved. Our land is now threatened by overgrazing. We ask for the Premier's office to release the Sikhakhane report and to act on its recommendations. We also thank NGOs for assisting us, especially from the University of Cape Town, for assisting us on legal issues. Thank you.

**Edward Mpheko, from Mgababa in South Coast (2:25:10):** We have a concern with Ingonyama Trust Board. As a business person, the Ingonyama Land Act of 1994 is working against businesses in rural areas and I also want to speak on how we can work together to change the situation. A brief camp in Umnini Camp in Umgababa is a popular place that was usually visited by church congregations, sports clubs, schools and tourists. It was developed to provide recreational facilities. In Mgababa there used to be visitors from inland coming to enjoy the sea. The sad part is that the Umnini facility was destroyed because of the Ingonyama Land Act. The law was passed on the eve of the 1994 democratic elections. The purpose was to ensure that the land does not fall into the hands of the ANC government. The law requires amendment in order to accommodate the situation today. The law also prevents foreign ownership of the land at the expense of local communities. It is bad because while it gives authority to traditional leaders it is abused by many corrupt and arrogant traditional leaders as well as uneducated traditional leaders. The Ingoyama Trust Board has a chairperson in the name of Judge Jerome Ngwenya who is alleged to be a dictator and the Board Members are handpicked. There were newspaper reports that the Board is a stumbling block to development. Projects for youth, students, the elderly were stopped because of the Ingonyama Trust Board. The Board is introducing a leasing of the land system. We

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recommend the investigation of the Ingonyama Trust Board, its books must be audited. When Inkosi Luthuli was hospitalised in Prince Mshiyeni Hospital he could not get assistance from the Ingonyama Trust Board. We ask the Panel to pay attention to the Ingonyama Trust Board, and the traditional leaders be allowed to take charge of their trust.

**Bongani Zikhali from Jozini (2:40:01):** I also wish to talk about Ingonyama Trust that is suppressing development in the area. In 2012 we were called as local community members to a meeting in Jozini Hall and asked to bring our IDs. We were told to join Ingonyama Trust without explanation. We could not ask any questions. I could not pay any money to Ingonyama Trust because the bank details on the papers were in the name of a personal person and I did not deposit any money into it. Month after month I receive letters stating that I am owing Ingonyama Trust. The letters say I have a 40 year lease with Ingonyama Trust. What will happen to my family when I die? What will happen to my property after 40 years? What will happen to child-headed households? I am concerned that I could be evicted anytime by Ingonyama Trust. We are concerned that this situation could spark fire. We ask the Panel to come to where we live and not just hold hearings in urban areas. We travel long distances to attend these hearings, and yet most people who must hear about what is discussed here are in communities. We ask you to consider coming to rural areas.

**Du Plessis, Manager TAU in the Eastern Region Mpumalanga and TAU National Restitution Coordinator (2:49:35):**

The issues that were discussed here this morning are all relevant to the situation. The land reform situation is in a chaotic state. This can be ascribed to several factors; lack of funding, lack of capacity in the Department and political decisions which can only be described as inadequate. A huge backlog of claims are in the books of the Department. In the case of Mpumalanga 2,460. The Parliamentary Portfolio Committee instructed the Department to settle these claims before July 2018. I can assure you, it is not going to happen. It means that just in Mpumalanga about a 100 claims must be processed up to

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July 2018. That is not going to happen. There is no capacity or funding to do that. Another issue which completely brought the process to a standstill was the decision to open the land claims in 2014. The intent was to speed up the process. The outcome was a total disaster, as we have seen. And this is going to impact on everyone involved in the process. For instance, what flowed out of the reopening of the land claim process is the competing claims. People of KwaZulu-Natal know very well what the influence of competing claims on this process is going to be. What it means is that a person who has been a beneficiary for a restitution claim who finds himself now in a position where there are three or four other claims on the property which he has already received as a beneficiary.

This is an impossible situation because the process is not going to meet the cut-off date, it is going to go on and on. And the question must be asked: can the economy of this country bear that? I don't think so. And there should be a serious look from the legislature in Cape Town on the question of the reopening of the claims. I work with these processes every day, every week, and up to today I could not find one paragraph in the Restitution Act on 1994 and the amendments since then which allows legally competing claims. And that is a serious worry. The Land Claims Court set from the 19 – 23 September 2016 to hear submissions on this issue. We are awaiting their judgement with anticipation.

Another question that was raised here is to alleviate poverty amongst farm dwellers and farm workers. If we do not think in economic terms we are not going to alleviate poverty amongst these people. We must also realise that land does not alleviate the plight of the poor, but the utilisation of land through sustainable agricultural practices. And this is what stimulates the economy and creates jobs. And we must always remember that. A lot was said here this morning about people who are unemployed but very little was said on how to grow the economy, how to enlarge the economy so that all these people can be included in the process. I have prepared the submission for the hearings today. I will not be able to go through it in five minutes. I have handed in a document to the

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secretariat, in which I made ten proposals to address the situation that we find ourselves in. What we have done in Mpumalanga for the farm dwellers and the farm workers is to look for farms in government possession and to make proposals to the government to settle those people on those farms so that they can support themselves and farm properly. You cannot farm on a farmer's property. In some of these instances the farm dwellers have received 20 hectares some of them have received 400 hectares some of them have received 30 hectares.

They are not going to better their position if they stay on the farm as farmers and have only 30 hectares to farm. That is not the way to go. So, we have made other plans and in some of these instances we have already awarded land and we have made decisions that were forwarded to the headquarters of the department for finalisation. It is unfortunate that we must say that the land claims process is not going to be finalised in two or three years time. We sit with a problem. What is going to happen in July 2019? Is this process now going to be put forward in another three or four years? We are already 20 years in the process and I would really, in the proposals I have made, ask Parliament and the legislature to in some way change the Restitution Act to make the process, which is very cumbersome at the moment, to verify claims. To speed up the process. At the moment it is not a straight forward process. It can take up to five years to verify one claim. And that is a problem. We cannot go on like this if we are looking at claim all over the country. We are going to deal with claims for the next 40 years. Some of the people present here will be deceased by then. Some of the farmers will be deceased by then. So, I really make a plea that we look at that. I want to conclude with that. The document I have compiled is available and I hope that the members of the Panel will look at those proposals. Thank you very much.

**Glenn Farred, Association for Rural Advancement (AFRA) (2:57:45):** AFRA as it is known was established in 1979 in order to combat and respond to evictions and dispossession which were being carried at that time. At this present time, in terms of the legislation that we are reviewing, we want to state simply that the laws that have been

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implemented have largely been unknown to people in rural areas. In as far as the laws have been put in place they have often not been well resourced. In particular, we want to point out the Labour Tenants Act of 1996. Furthermore, legislation has not been effectively implemented nor has legislation been regularly reviewed. AFRA works with farm dwellers, with farm workers, with labour tenants especially youth and women largely on commercial farms. We find that people's experiences are that legislation is not implemented effectively on the ground. The gap between what the intention is and what is actually received by beneficiaries is huge. We have to say that as AFRA your presence and your process may come too late for us. We have had to take the Department of Rural Development and Land Reform to the Land Claims Court to seek redress for the systematic and chronic failures expressed by the Department as we have already outlined, especially in regards to the labour tenants.

We found, by our own calculations, that if labour tenant claims were to be processed by the current rate it would take another 50 years for the outstanding approximately 11,000 claims to be processed. This is an unacceptable situation. We have a Department which calls itself the Department of Rural Development and Land Reform, but we would rather that it be called the Department of Dysfunction. At every level and in every way it carelessly disregards the rights of the people. We have, through our court action, fortunately been able to uncover what we believe to be the source of this problem. It appears that the Department has decided it makes policy regardless of the Constitution and regardless of law. It has argued this in the Land Claims Court that there is a distinction in its mind between constitutional rights and constitutionally derived policy, and what it calls the discretionary policy; policy at the discretion of the Minister, policy at the discretion of the Director General, policy at the discretion of government which overrides legislation, which overrides the Constitution. This is a shocking state of affairs, and we believe that in order to go forward, not only this Panel but also Parliament must be empowered to intervene by regularly reviewing the performance of the Department in relation to the targets and the outcomes that are defined in the legislation.



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We have gone further, because we have no choice, and we have approached the Land Claims Court with a rather unusual request. We have asked for a special Master to be appointed to take over the functioning of the Department so that the objects of the law can actually be implemented. There is no evidence that the Department as it currently stands, and with its current views, will actually make any progress. It is unusual for those of us who are fighting for our land and fighting for our rights to agree with those who are owning land. But we agree with the previous speaker here that says, yes it is going to take 40 years. At the current rate it is going to take 50 years. There is something fundamentally wrong. The problem does not derive from our Parliamentarians. We need an intervention. And for that reason we really request this Panel to take seriously the court application that AFRA has brought at the Land Claims Court. But more than that we want to remind you that these are people's lives. We have one claimant who is 102 years old. His claim is not disputed by anyone. Yet his claim has not been processed since the cut-off date of 31 March 2001. That is 15 years, for a 102 year old man to wait for his claim. We implore you to stand with the people and ensure that the legislation does trump the whims of politicians and bureaucrats. We need consistent application of the constitutional provisions. We need instruments of review. And we need to ensure that stakeholders can effectively participate so that their lives can be improved. Thank you.

### **Dr Monique Solomon, National Coordinator of Tshintsha Amakhaya (3:04:46):**

I am representing ten NGOs in various provinces. We are working with rural women, youth and men who are farm dwellers and farm labourers, people living on church land. And my colleague from AFRA has mentioned the Constitution and the law. The Constitution says that we are all equal and the land belongs to those who work it. But 22 years into democracy, poverty and inequality are at an all-time high. We have heard these testimonies this morning. And the inequality is so extreme that we can see a wealthy couple going into an expensive restaurant and spending R5000 for one meal while around the corner a mother who is destitute walks an extra kilometre to buy a loaf of bread that is cheaper, and we all know how expensive bread is these days. We have

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done research in 12 rural municipalities that was published in 2012 and it shows that one in three households goes hungry. We have also seen that of those rural households 70 percent said they are farmers, but only 2 percent really earn income. And why is that? Is it because the majority has one hectare to try and make a living? We see that small scale farmers and food gardeners are still struggling to access land, agriculture inputs and access markets. That is what we heard this morning. Informal traders are treated like lepers; they make the streets dirty, they need to be chased away. And consumers who have money to spend, most of us don't, should have choice but we don't because most of these products in the supermarket shelf are made by a handful of corporations.

In June 2013 when we were commemorating the 1913 Land Act we travelled across the country to hear testimonies of women and men who were disposed after many years as a result of the Land Act which continued to ruin their lives. And we drafted a memorandum that we handed to the Land Claims Commissioner. And the silence ever since has been deafening. We are really happy for this opportunity and we congratulate the Panel for this opportunity to allow us to once again reiterate our demands. The focus of our submission today is not going to be strongly on land reform but our focus is on the need to prioritise small scale sustainable agriculture for food sovereignty. And what is food sovereignty? It is that we control the food system, not the corporates. It must be in our hands. So, I want to ask you a question. If large scale, high input, industrial agriculture is the answer to national food security, why then are one in three rural households going hungry? And we believe that we must decolonise our minds - that large scale commercial industrial agriculture is the one way to strive for because that is what a lot of people believe, that is what government believes must be promoted. And there are so many initiatives that are trying to invest in small scale food producers. But those are charity projects. And that needs to change. We say that we must decolonise agriculture, forestry and fisheries. And we need to support and truly invest in local, sustainable and indigenous food production practices. So, if we really need to wage a war against poverty, as the government is saying, let the war rooms fight the

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real enemy, and that is the government's chosen path of economic policies that have widened the gap between the rich and the poor, the large landlords that have so much and the landless that have nothing. So, we are asking you: is there political will to invest in economies that build rural democratic governance, not kingdoms; and that really build community cohesion; that promote a local food systems that provide affordable and healthy local food; and that generate a range of livelihoods for rural women, youth and men; and those are not farmworker jobs, those are jobs those are enterprises?

So here are few specific actions that we want to see in policies and programmes. With regards to land, and there is a long list but I'm just going to highlight a few, farms need to be subdivided and the legislation needs to change to facilitate this as Reverend Mavuso said the fact that there are farms now on our land it is not our problem, subdivide the land. 50 percent of rural land we believe must go to women. And we want a moratorium on conversion and diversion of agricultural land for elite developments. The game farms we heard about this morning, the golf estates, the lifestyle estates, and we want a moratorium on mining and extractives. With regards to some pieces of legislation, the spatial development legislation is choked by some municipalities that are struggling with qualified audits. With regards to water and other natural resources, the colleague from the KZN Business Chamber mentioned the general authorisation, the water licences. It does not make sense to get the thousands of small scale producers to apply for a licence, and we have heard how long that takes. That does not make sense. Regulate the large water users and punish those that violate those regulations because that is where the water is going. With regards to the fisheries, recognise the customary fishing rights of fisher folk and implement the small scale fisheries policy because with only the Marine Resources Protection Act members of various fishing communities like those in the Eastern Cape continue to be arrested for poaching when they harvest fishing resources on a nature reserve that was in 2000 was proclaimed their territory, a rightful traditional and ancestral territory.

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With regards to farm workers and farm dwellers, we are sad to say that the expected benefit of the relative rights of farm workers policy, the 50/50 policy does not [ ] that it has caused to farmworkers. It has led to pre-emptive dismissals and evictions as we have already seen under ESTA and an increase in the use of labour brokers. The policy only benefits few farmworkers with a long standing service record. And that discriminates against women, migrant workers, and undocumented migrant workers. With regards to agricultural support, take down the pedestal on which large scale commercial industrial farmers are placed as the high end goal of what a real food producer should look like. Scrap the distinction between commercial farmers, emerging farmers, and subsistence farmers as a gradual process of development towards higher purpose. And rather invest in food producers who practice sustainable farming methods that sustain affordable healthy food and protect the natural resources. We ask you to integrate the different policies for agriculture and the community based natural resource management into a coherent strategy that promotes a thriving and sustainable rural landscape. Practically, we ask that you finalise and implement the strategy to be used by the Department of Forestry and Fisheries and clarify links for it, for instance, to organic farming. We want you to invest in rural development and extension for sustainable ecology so that extension workers know how to promote sustainable practices.

We want you to stop the moncentres, the corporate monopolies of seed and breeds, and start protecting and promoting local seeds and breeds. We want import taxes on agricultural products that compete with local products. We don't need imported chicken, we have our own and we can produce enough. You can see them walking around the rural homestead. With regards to the local economy and the local economy and the local food value chains, we say support local production for local consumption. Decrease the food miles. It does not need to come from far. Establish regulation measures that prevent monopoly and exploitation of local producers by supermarkets, we have heard it this morning. Two more points; invest and invest in, and build on the strength of the informal economy and the informal system.

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**Inkosi Phathisizwe Luthuli:** I come from Umnini south of Durban. I request that when there are issues affecting traditional leaders, traditional leaders be invited and a platform be created for exchange of views. There is a point mentioned here earlier on that touched me, it mentioned hospitalisation. It was wrong, and I am not going to repeat it here, but will repeat it one day on an appropriate platform and correct it because it is incorrect at the moment. There is no man who paid for my hospital bill when I was hospitalised in Umlazi for gunshot wounds. I footed the bill out of my own pocket. I am requesting that if the Panel is going to listen to matters affecting traditional leadership, it must arrange a special session and make the platform available. Thank you.

### 20 October 2017: Afternoon Session

**KZN Christian Council (2:40):** I just want to explain that Dr Dziva is not here, but the submission of the KZNCC is here and has been submitted together with that of Africa Solidarity Network. It is quite a thorough analysis of the refugees' plight and a number of suggestion made for amendments to the Refugee Act. But it certainly would be far too long to present.

**Dr Paddy Kearney, Special Committee on Social Cohesion (3:51):** (Speaker summarises slide presentation) We have a reference group on social cohesion, migration and refugees in KwaZulu-Natal. Our Chair was Justice Navi Pillay who is a member of your High Level Panel, so you will be able to get a lot more information from her because this presentation will be very brief. We were given the mandate by the Premier of KwaZulu-Natal to take a comprehensive assessment of reported causes of the attacks and the socio-economic impact, undertake an assessment and consideration of the shortcomings and successes of ongoing initiatives, to facilitate intra and intergovernmental consultations.

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Our methodology was to hold consultations and focus groups. We had 58 consultations altogether with diverse groups of stakeholders throughout the province and received 88 written submissions all of which were analysed and incorporated into the report. Part of our methodology was to go on site visits listed in a relatively short period of time. We had just April and May of 2015 to do our work. Literature review and media survey was done by our secretariat, which consisted of the staff of ACCORD.

Recommendations. Firstly, we should look at innovative ways to reduce tensions in the small and in the informal trading sectors. There is a great need for entrepreneurial and business skills. And we suggested that wherever possible foreign nationals should be included in the teams that provide this training. Secondly, developing and enhancing national policies on migration. In fact we do not recommend any changes to legislation. But, like other speakers said this morning, the bigger challenge is on the implementation of the legislation which already exists. Three, strengthening reintegration through a more collaborative approach between civil society and government. And just to say a little bit more about that, our feeling is that very little has actually been done to promote reintegration of people into communities from which they fled. So, there is a big task still to be done to bring locals and foreign nationals together in those places where there was conflict and for them to tell their stories to each other and get a sense of their common humanity.

The forth recommendation is sensitising and educating civil servants on the rights and documentation of foreign nationals. The fifth one is documenting the lessons learnt and the government response and disaster management processes not only from the xenophobic attacks during 2015, but the earlier ones in 2010 and 2008 and there were other things going on even before that. So, all of that needs to be looked at to learn lessons. Six is strengthening the capacities of resources for institutions for managing migrants, refugees and undocumented migrants. We found a great need for staffing increased in those institutions. Seven, upgrading the physical infrastructure of KZN border areas. There are areas where the border is almost non-existent. Eight, a

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provincial audit on intelligence structures and early alert systems. We received a document which had been sent to senior officials in KwaZulu-Natal in December 14 alerting them that there was great tension in certain townships between locals and foreign nationals. Absolutely nothing was done about that and four months later we had the explosion in April 2015.

Nine, proactive information-sharing on foreign nationals in the province and in other parts of South Africa. Ten, ensuring leaders make responsible public statements. There were a number of public statements made by various senior leaders which did not help. They did not actually cause violence and they did not help stop violence. Eleven, education based campaigns to promote more cohesive and sustainable community relations. This is campaigns at all levels of education. From primary schools right through to tertiary education, there is a need to sensitise people to people coming from other parts of South Africa. Twelve, a proactive foreign policy to address migration related issues. Creating and strengthening local forums to promote cohesion within communities. Business forums which include both local and foreign nationals should be established wherever possible. Much can be learnt from KwaDukuza about the value of such forums. In the very first places where those existed, violence was prevented because they were ready, as soon the first hint of violence took shape in their communities they got together in the forums and they worked out a plan to prevent violence and they were successful. We really see that as a very important initiative that should be multiplied around the province. And finally this says the entire report be made public and that all records be stored either in the national archives or an institution with similar competencies. The full report, which is about 200 pages, is available on the Premier's website and also on the ACCORD website. And in addition there was a social cohesion committee which worked the year before us and their report is also in the Premier's website and also on the ACCORD website. Thank you.

**Warren Manning (12:40):** I want to draw the Panel's attention to the construction regulations of 2014. There are these two instances of construction regulations that

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possibly abused human rights. The first one relates to the compulsory medical fitness testing that these regulations now require of all employees in the construction sector. Comrade Motlanthe will remember the compulsory medical testing in the mining industry. Unlike in the mining industry where there are standards for fitness, which are used to evaluate an employee's medical fitness, there are no such standards in the construction sector. So, we have workers being made to submit to medical fitness testing without the set standards in order to approve these medical tests. This is definitely opening up issues around equality. Furthermore, people fail these medical tests and they are automatically disqualified from working in the construction industry. So, the issue grows. Now you have an unfair discrimination based on disability or maybe chronic illness. It is an abuse of human rights. It needs urgent attention. Dr Nombembe, on your side, how much do these tests cost? There are approximately 400,000 employees in the construction industry and about R700 a year must be spent on these medical examinations. That is probably R1billion a year being spent fruitlessly. This warrants an enquiry.

The second one relates to the requirement for Occupational Hazard and Safety personnel who is registered with a professional council. So, this is a professionalization project similar to many other professions such as the medical and legal profession. But, there is no professions act that has been promulgated to define an occupational and safety practitioner. Whereas in the financial sector you have an act which defines what an auditor is. A teacher is defined by the educators' profession act. There is no such for an occupational and safety practitioner. Then you pass a regulation that says you must join another council. Which council are you required to join? Now that it like saying to the electrician he must join a plumbers' council. It is an abuse of a right, because we have a right that says we can freely choose occupation of our trade provided such is framed by a law. That requires a professions act. In the built environment we have a profession, and I don't mean to cast aspersions on colleagues, but we have a council that is dedicated to landscape architect. Yet we have no council that is dedicated to health and safety practitioners, people whose primary function is to protect a workers'



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right to dignity and life. There is something wrong with that picture. And so my recommendation is that the Panel recommend that the set of construction regulations of 2014 is investigated for possible contraventions of the Constitution. That these regulations be lifted, suspended, and that amendments be introduced to resolve the problem. Thank you.

### **Lethu Ngwenya, Amajuba (18:40):**

First, our concern in Amajuba District is the implementation of labour laws when it comes to inequality. We are concerned about the Chinese factories exploiting people in local communities in Amajuba and paying them poor wages. Also, our education is not helping us as statistics reveal that youth is unemployed. There are several industries in Newcastle such as factories for chemicals yet locals are not getting jobs. There must be a review of the national education policy. We ask the industry players to do something to abolish poverty and inequality, do away with red tape. Just as the other speaker mentioned that we are forced to import food yet there is potential to produce here in South Africa. Government must invest in human capital. Chinese factories in Newcastle continue to exploit people because they are not monitored. That is why we call upon government to strengthen the implementation of policy and laws.

**Phumzani Ntuli, KwMhlabuyalingana in Manguzi (25:05):** I come from deep rural areas. The National Act is not implemented. The hospital in Manguzi is short-staffed and poorly equipped. In safety and security the police station is also under-resourced. The Skills Act on 1997 is not helping us. The youth with skills and talent are not supported by government. Municipalities must play a significant role in creating opportunities for youth with skills and talents. For example, I am a professional runner but I have no sponsor. I am struggling to get support mainly I am unemployed. There are many others who like me who are talented but lack support to develop themselves and to find opportunity to earn a living. Thank you.

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**Zamane Msimi, Zululand District (28:33):** We are in a rural area with farms. The economy does not benefit locals. The forestry in the areas benefits commercial farmers and not the locals. This needs to be addressed. We see that inequality is linked to social transformation. We see that the BEE system was good in principle but now it is working against us. There must be a limit on how much individuals benefit for BEE system because it appears as though the system has been hacked and that few are getting richer and richer while the majority of ordinary people are sinking in poverty.

We had a company that traded on bottled spring water. The company closed down. We don't know the reasons. But people were left without jobs. We wish for the company to reopen so that people can get jobs. There is over 32 percent unemployment in my area and yet there are options for employment creation. I want to move on to education and talk about NASFAS that I think it must be amended. The system is central and is open to fraud. The system must be integrated with other departments such as Social Development in order to properly screen applicants. The system must also be at a local level so that people who are eligible for support must be given support and be followed through after completing studies so that they can pay back the loan.

The Schools Act and the SGB must be reviewed. We wish to add that SGB members must declare their interests because there are members of the SGB who do business with the school. The Act must be amended to provide for parents to adopt the budget and mid-year review of the budget instead of the SGB. This is because sometimes the SGB members do what they like. In cooperative we need more budget to for empowerment, tailored funding, and support programmes.

**Bishop Jewel Mkhabela, eJozini (36:38):** I want to talk about what brings us together and what pushes us apart. There is nothing that brings us together like religion, and yet there is nothing that divides people like religion. If you use religion in a good way it will bring us together, and yet if we use religion in a bad way it will divide us. I will recommend as follows: Act 19 2002, Commission for the Promotion and Protection of

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the Rights of Cultural, Religious and Linguistic Communities. When looking at the work of this Commission, it is not focusing on the promotion and protection of rights but on investigating offerings and collections in Christian churches. It positioned itself as the Ombudsman for church financial activities. It is an undeniable fact that the Act in question and the purpose for which the Commission was formed is very much needed in our country for the sake of regulating religious and cultural affairs. This Commission must holistically execute its mandate by promoting and protecting rights of the said communities rather than policing them. The Commission must be available and easily accessible to all the citizens, including those in rural areas. Recommendation, for the Act to be effective I propose that a designated ministry be formed that will serve as a custodian of matters relating to religion. Culture and linguistic matters are already covered under the Ministry of Arts and Culture. This can be called Ministry of Religion and Domestic Affairs. The reason is because the duties of the Ministry will be the registration of all religious organisations. They should be known by the government in proper manner and in a proper ministry. Secondly, the registration of all religious leaders in our country. Thirdly, liaising with the Department of Home Affairs in granting or denying licenses for religious leaders coming from another countries.

Fourthly, to liaise with the Department of Land Affairs and communities in allocating sights for religious organisations and reservation of parks for religious gatherings. For example there can be demarcated spaces where tents can be erected instead of these being erected in the middle of the roads in residential areas. One thing that I propose is the administration of interfaith structures and the moral regeneration movement should be under this very same government ministry. And the administration must be under a specific department that deals with religion. For example, in Indonesia and Thailand there is such a government department that deals with religion. So, it is possible to have such a department in our country. And the licencing officers for ministers of religion should be in that same department. So, licencing of burial officers must also fall under that department. Finally, is to provide a platform that will deal with domestic disputes.

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**J. Mchunu, AbaQulusi Municipality (43:09):** AbaQulusi area is a troubled area to such an extent that there are no industries and no job opportunities to develop sustainable local economy. There is nothing. We used to depend on the mining industry. The mines were closed. Then there came companies that employed people on three or six months contracts. You cannot support a family with irregular and fluctuating income. We appeal to government to create job opportunities because coal is still available for mining in the area. The government must intervene to create decent jobs. If that can be successful we would be grateful, and also to do away with labour brokers because they are destroying the economy, they are creating inequality, they are destroying livelihoods. Also, Act 84 of 1996, South African Schools Act. We urge the government that the FET Colleges are not covering sufficient ground for us and our children are forced to go to faraway places such as Babanango to enroll for courses on bricklaying and plumbing. We urge that we must also be given attention by government through provision of training centres to meet the local demand, so that our youth are not forced to go to faraway places such as Newcastle for training. Lastly, Ingonyama Trust Act is a concern. We see construction companies arriving in the area to quarry stone for road construction and extract the stone without benefiting the local community. After that the companies disappear and go back to big cities without investing on local communities any of the profit made from extracting the stone. We urge the Panel to intervene on our behalf.

**Mbali Mbatha, Mzinyathi Municipality in Nquthu (46:38):** I am disturbed to note that in the booklet I have there is no mention of disability and albinism issues. But I hope that the Panel will find a way of giving attention to issues of disability and albinism. Next I must say that I was fortunate to have a mother with albinism condition, and the way I love her is out of this world. It is shocking that there are people out there who believe that use of body parts of people with albinism can make someone rich. That is shocking because we are all human beings. The fact that they have a different skin complexion is irrelevant. By killing them you expose that you are not okay. Killing a person is murder.

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The government must take more responsibility to support awareness programmes so that the word can be spread that killing of people with albinism is not acceptable and is punishable in law. There are a lot of people in Manguzi with an albinism condition but the way the rate of killings is escalating is alarming as though there is a campaign to hunt people with albinism. I don't know what the cause of this mischief in Manguzi is, but we visit the area on many occasions to conduct awareness programmes. We are not succeeding. I hope that the Panel will take this matter into consideration.

Also, we have a Parliament focusing on disability issues and we would like it to be treated accordingly by South Africans; its decisions and recommendations to be taken seriously because at the moment there is not enough attention given to it. The municipality in Nquthu is very supportive with projects on disability and albinism. Even the district municipality is supportive. I would like to emphasise that we urge the Panel to prioritise issues of disability and albinism, especially in areas where people with albinism are hunted and killed in large numbers by people with the belief that using their body parts for medicine will make them rich. Thank you.

### **Bhekisisa Ncube, KwaMhlabuyalingana (51:00):**

We have a problem of Isimangaliso Wetland. We urge that the Panel consider the laws pertaining to Isimangaliso. Some of the laws violate human rights of local communities. In Sodwana Bay, Kosi Bay, up to St Lucia Bay, the communities are not benefiting from the economic activities in the area. We also urge that there must be land audit in towns in the area such as Mbazwana, Manguzi, and others and that the laws must be applied. Also the Ingonyama Trust is giving us problems as others have mentioned. It must be investigated and the violations of human rights. I will not say more except to reiterate that we also have serious problems with Ingonyama Trust. Thank you.

**Nelisiwe Mavuso, Pongola (53:03):** We appreciate the opportunity to present here. It is the first time that we are given such an opportunity to voice our views and experiences. We appreciate that most laws work for us to improve our lives and to make

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us proud South Africans. As women we still experience unequal pay in some sectors of the economy even though we perform same work and we have same qualifications with men, we are still exploited. We urge the Panel to help us end this form of discrimination. Also the labour regulation environment. We urge that employees must be allowed to take a lump sum amount from their pension fund because already we see an exodus of medical practitioners in anticipation of the introduction of laws to prevent individuals from cashing out their pension fund. We urge the Panel to consider this matter and review the proposed laws. Unemployment is too high and it increases year after year. There is CIDA and NYDA that are not helpful in creating job opportunities, instead they conduct workshops and give out certificates that are not useful in opening employment opportunities. Also the Immigration Act must be implemented because the borders are porous. We live along the border and it is possible to walk across the border from the Swazi side to our village. The border control officials are nowhere to be seen. We see that there is high rate of crime and even though who are arrested are released the following day. Criminals act with impunity, they murder people, and they bring drugs. We urge the Panel to consider these serious matters and visit our regions to hear from people on the ground. Thank you.

**Sakhiseni Kheswa, Mziwabantu Municipality (59:48):** I will touch on a few issues. Unequal education especially in relation to people with disability because we are always told that our needs are serviced under special needs. But when it comes to education we are not special. For example, there is a primary school in Harding and then a high school in port Shepstone that do not accommodate all the children with disabilities. People with disabilities who cannot come in the mainstream schools, without suitably qualified teachers, are sent to schools that are not suitable for children with disabilities. Some succeed but many do not pass. Even in the work place we find discrimination, like myself I have speech impairment, and in job interviews I am disadvantaged as though I am not competent enough. Lastly we have a huge problem in Mziwabantu Municipality because the employment quotas are not met. There is disregard for people with disabilities. The politicians tell us that there are no regulations or guidelines to use to

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include people with disabilities in the workforce. And they are not taking any steps to change the situation. That is why we consider ourselves, as people with disabilities, as not belonging to the municipality because we are kept outside consultation and employment processes and opportunities. We urge the Panel to take these matters into consideration. Thank you.

**Nwabisa Mondli, Matatiele under Harry Gwala Municipality (1:05:28):** I would like to talk about Kokstad Municipality in relation Land Reform Act. We have farms and people who live in the farms. The conditions are bad. Farm dwellers have no burial land. We see people being evicted with nowhere to go, especially children of farm dwellers. We urge the government to give land to people and equip them with skills to farm and make sustainable livelihoods. Also, the Labour Relations Act and the fact that farmworkers do not receive pay slips. Also the border with Lesotho results in children born of mothers who are Lesotho citizens are not getting social grants even though the children are South African and even though they need social grants and other basic services. Basic conditions of employment must also be reviewed to protect marginalised workers in some sectors of the economy like agriculture and forestry. Thank you.

**Ntandazo, DPSA (1:08:58):** Starting with the land restitution issue, I would like to applaud government for reopening the process to claim under this law. As a person who bears the right to claim and representing my family members who passed on, finding the right door to knock on is a challenge as there is no transparency in government. There are people who do not receive the money for compensation and there is no explanation by government as to what happened to the outstanding claims. My family and others who were supposed to be compensated are still waiting for compensation but we are not given information as to when will the payment due to us be made so that we can have closure on this land claim. Older people and people with disabilities do not have the strength or taxi fares to pay to attend meetings that decide on these issues and there is no effort by government to reach out to us where we are. We keep being told to return on another day each time we go to offices to enquire about the status of

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our claims. The solution will be for government to bring the services where we live. On social services we recommend that government must bring the services to where people live and to intervene where grant recipients are abused by other household members.

**Ndumiso Mbanjwa, Richmond (1:17:08):** A lot has been said but I would like to add my voice as an unemployed young person who finished school in 2010 but have not been employed in a decent job. I have been doing piece jobs. I have been to many job interviews but have been unsuccessful. The government must look at the issue of foreign nationals who are exploited by employers and made to work long hours for little pay. This situation is leading to us South Africans not being employed in some industries because we cannot accept exploitation by employers. That is why we recommend that the Department of Home Affairs and other departments such as Labour, Safety and Security must look into the matter of illegal immigrants who are corrupting our society. As citizens we feel the incompetence of government departments and the business exploitation of the poor. We urge urgent action by the government. In Richmond we have large agricultural land yet timber and sugar costs are very high even though they are produced locally. Concerning crime we see there is an increase in substance abuse, offenders are arrested and released the same day, police are useless and unresponsive, and the courts are useless and unresponsive to the plight of communities. Yet when a rhino is killed somewhere in the province, that is all over in the news with helicopters hovering searching for poachers. Yet when community members report crime, there is no response, no help, no follow up. Why is there unequal treatment in our country? May the Panel take note of these issues. Thank you.

**Cebo Mhlongo, Ulundi (1:22:29):** As young people we have noticed lack of skills development for young people. There is only Emandleni Technical Skills College in the area, and the next closest is in Babanango. What is provided for is not enough. It would help if government could budget to provide for training institutions and skills



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development opportunities. Our leader Nelson Mandela once said, “Education is the most powerful weapon we can use to change the world.” Whenever I think about those words and consider the way education is lacking in South Africa, I feel heaviness in my heart. Even the budget that is managed by municipalities is not enough to meet the challenges of the youth. Recommended solutions are that we must get more training institutions. We must review Cooperatives Act of 2005 because we see that people join cooperatives for different reasons. We should ensure that people with the same vision are brought together in a cooperatives and not just everyone who will pull into the opposite direction and end up causing the cooperative to be dysfunctional. Only people with the same vision must be registered under the same cooperative. There is also a challenge of lack of work experience amongst graduates seeking employment. For example, qualified graduates do not find suitable placements to get experiential training. Instead internship opportunities exploit young people as cheap labour. Lastly, there is a shortage of industries to employ young people. Instead those who get work opportunities are exploited. We could harvest natural resources in the area if there were commercial enterprises willing to invest in local economic development. Thank you.

**(1:29:51):** Firstly, the basic conditions of employment require strict implementation so as to close the gap between salaries of managers and general workers. The gap is almost 200 percent and this is unfair. The Labour Relations Act must be implemented and reviewed. As the COSATU representative has mentioned the workers are unfairly discriminated in cases where the employer has to exercise a discretionary remedy because instead of cases being finalised at CCMA they take a new shape after a CCMA order has been given as employers seek ways to dismiss employees who stand up for their rights. Also the Income Tax is disadvantaging workers because the brackets are not in favour of the poor. There must be proper taxation of the rich and foreign investors. Regarding the cooperatives there are challenges where there is lack of leadership training of members as internal structural weaknesses are a major cause of the collapse of cooperatives. The Competitions Act also needs to be reviewed because it does not promote competition between in the small business sector as foreign

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nationals are now dominating grocery stores and their business model is squeezing out locals. Even the big businesses are dominating and suffocating small local businesses. It is not easy to lease land and property as a businessman. Under the BEE we find that only few individuals benefit because businesses depend on tenders and when there are no tenders there is no business. There must be way to diversify BEE businesses so that businesses can stay afloat and be sustainable. Even the business management skills must be improved through training and mentorship. Thank you.

**Busisiwe Dube, KwaDukuza NPO Forum, Ilembe District Municipality (1:36:40):**

We have prepared a submission over three days. The Bank Act still disadvantages us as poor people because of the exorbitant bank charges and the onerous conditions for repayment of loans. It is still difficult to raise loans because of the onerous requirements and conditions. Also, the Reserve Bank Act is good but it should be reviewed to consider currency exchange and foreign debt because we owe money to companies such as those in the USA and repayment of foreign debt takes away a lot of resources that can be used to improve the lives of ordinary people in the country. The Act should consider other way in which our country can provide loans to other countries such as Zimbabwe and to see what criteria to use to ensure that the loans are repaid. Also, the National Empowerment Fund Act is still relevant but it is not clear how it is used to develop the needy South Africans. The Act should specify how a disadvantaged female South African should access funding and support to be empowered to participate in the economy. The Act does not protect the will of small businesses wishing to get capital funding for commercial enterprises. There must be a clear policy on how to develop underrated businesses like farm stalls. The Companies Act is not clear on the support system for cooperatives in a simple approach because the nature of a cooperative is also not clear when it comes to funding, and that must be reviewed. The Competition Act plays a vital role to ensure participation of small businesses in the economy but only the big businesses are able to take advantage of the protection of this Act. Thank you.

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**Sibusiso Mpanza, Matubatuba (1:42:30):** One, much has been said about cooperatives, but there is something we still have a question mark on. And that is the R350 000 grant for cooperatives. We urge the government to ensure that laws are implemented because, I have more than eight years in the cooperatives, but I have never seen anyone receiving that amount. I still don't understand why the law is so rigid or why the law is not implemented as intended so that people can receive the grant, and it should not be difficult to receive the grant. Even if the amount was reduced to R50 000 that would be better than not receiving anything. The grant can go a long way towards ensuring that cooperatives become sustainable and inclusive. Two, there is a problem with water shortage because of droughts. We applied and received funding to draw water from the sea, but we were blocked by water rights regulations. Also, regarding liquor licences must be reviewed because shebeens and tarvens are everywhere near schools, churches, and in the residential areas. They cause noise and nuisance. When you complain to the police they tell you that the liquor licence allows for such businesses during those operating hours. Thank you.

Minute 1:44:49

Sithembiso Sibongiseni Mpungose, Emandeni in Ilembe District Municipality

I will present on social cohesion and nation-building. I will focus on few things including: source of tension in the province of KwaZulu-Natal, poverty, crime, inequality in education and the economy, moral decay that leads to social ills. Sources of unity include: respect, sports, tourism, and culture. To address the divisions in our society we need to promote moral regeneration and restore hope. The key social divisions are; xenophobia, politics, and religion. The laws that bring us together are Sports and Recreation Act, and Promotion of Culture and Tradition Act assist with building unity. The law that is still giving us problems is the Traditional Leadership and Governance Act. It is causing divisions because it is incomplete, it requires to be extended into other areas to include issues that unite communities. Institutions that assist with social cohesion are the Commission on Gender Equality, the Cultural Institution, the National Arts Council, the South African Human Rights Commission, and the Public Protector.

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The government can contribute by providing civil society formations with resources, strengthen monitoring and evaluation, and set up a team that will perform and implement these proposals by also giving priority to education, and create a platform to access basic information about funding and support opportunities. Lastly, for most people in South Africa there is a challenge facing previously disadvantaged communities because they are not aware of the available laws, they are far from government offices and services, and they do not benefit from the provisions of the law, especially laws that are not implemented effectively.

**Wandile Ngcobo, Dundee (1:47:40):** I will touch on Land Restitution and Land Rights Act. I have been sent by the people of Dundee concerning an issues that affects them in Ndumeni and Mzinyathi and surrounding areas. There is a pending claim that has been referred to different government departments but is yet to be finalised. We are very unhappy about the delays in the processing of land claims and the lack of information regarding the status of the land claims. As affected communities we are not kept informed by government about what is happening.

Also, the Ingonyama Trust has a huge impact on development in rural areas as it has become costly to get a site to start a business, including in areas such as Msinga under the Mzinyathi Municipality. We are very concerned about missed opportunities for economic development because in Msinga we have natural resources that can be extracted and that we can benefit from economically as local communities. We urge the Panel to consider these issues because there is a lot of potential that can be released if the relevant laws can be implemented and if local communities can be involved in local economic development initiatives.

On poverty and access to basic services, we commend our government for progress registered so far in making basic services accessible to the wider community. The social grants are helping vulnerable communities, but there are things that we would like to see improved such as ensuring that the social grants paypoints are accessible. At the

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moment there are still people who are forced to travel long distances to social grants paypoints and are forced to stand in long lines for a long time before receiving social grants. This must be changed. Thank you.

### **Mhlaliseni Zulu, Amajuba in Newcastle (1:51:40):**

We have prepared a 16-page submission that covers a wide range of issues. And so my presentation will focus on two things. On Act 2 of 1995 we say if the government of South Africa has managed to create one centre of power in Pretoria, why is it difficult that the land be under the control of government and for the government to decide on how to use the land? We cannot be controlled by a minority that owns the land they never bought and when we as the rightful owners of the land want our land back we are told that we should pay for it. We cannot allow that to happen at this time. They must bring our land back, without compensation.

On rural development, there is what is called Ingonyama Trust. It must be disbanded because it has no good use but is enriching few individuals. Furthermore, I will make an example on what is happening in Newcastle, where it erected sign boards written that the land is privately owned by the Ngonyama Trust. People moved in and settled on the land. And when they wanted to evict the people, the Ngonyama Trust approached the municipality to evict the people from the land. The question then is how can the Ingonyama Trust approach Makhosini Nkosi in the municipality to evict the people when they are the ones claiming that the land belongs to the Ingonyama Trust? Because they know that evicting people costs a lot of money, they are supposed to go to court to obtain a court order. The Ingonyama Trust has no use for us, it is choking service delivery, it is diverting public resources. Thank you.

**Frank Moloi, From Alfred Duma Municipality (1:55:24):** Skills development programmes are lacking in our municipality because municipal officials are not supportive of various initiatives by community members and local businesses to promote skills development and economic development opportunities. Also, when it

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comes to health there are few clinics that are well staffed and well stocked with medicines to accommodate the growing population. Also, RDP houses are not allocated properly as there are people who have been on the waiting list for a very long time and are still waiting to get houses. When it comes to access to water there is corruption linked to the installation of water metre system that has led to disconnection of water supply for many poor households. Many are receiving huge bills they cannot afford to pay and are blacklisted by the municipality for failing to pay. We ask the Panel to consider these issues.

**Mgungundlovu (1:59:40):** We have prepared written submission. I just want to emphasise on the need to educate people on policy and legislation formulation. I want to refer back to the Group Areas Act and the Land Act that caused a lot of hardship to our people. Those laws were passed by the majority in Parliament. Now as people of South Africa we need to focus on political power to ensure that Parliament passes correct laws for us to get back our land, and by even changing the Constitution if that is necessary for us to get our land back. Thank you.

**Ethekwini Disability Sector (2:01:30):** We have a prepared submission. Thank you for the opportunity. The previous speaker said the Constitution must be amended, and I echo that. The Constitution protects criminals more than ordinary citizens. The time has come for the Constitution to be amended. It is sad in this country that each and every president or premier or mayor does not mention business people who are disabled. This is so because disabled business people are still perceived as beneficiaries of Corporate Social Investment programmes. And yet there are disabled business people who set up successful businesses from scratch. They are full participants in the economic transformation. The new BEE Act has sidelined people with disability, and it is a regression from the previous Act in so far as it now sidelines people with disabilities. Our biggest enemy is the SABC that does not educate people about disabilities so that people can understand that disability is part of our lives. The White Paper taken from the United Nations must be fast-tracked. The talk about inclusive education in an

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environment where the education system and infrastructure are not ready for inclusive education, it is creating false hopes. Even the right to life is meaningless when there is abortion, killing of people with albinism, killing of young children and old aged people. We recommend that people with albinism be listed as beneficiaries of social grants because they have already been declared as disabled elsewhere. Children with autism are underserved and are denied health and education services. We urge the Panel to consider these issues, details of what could be done are in the submission. Thank you.

**Mngadi (2:10:40):** My mother passed in 2012 and I have no place to stay. I am threatened with eviction from where I stay in Ndwedwe. I have also received death threats. I have been with the Commission on Gender Equality, I have been on television, but I still face the same threats. At Mavela and Nyuswa traditional leaders said I was chased away from home because I was accused of witchcraft. Please help me.

**Vundla (2:13:33):** Please help me, my husband passed away in February 2013 and after the funeral the farmer destroyed the house we were staying in and the household furniture and the farming implements. When I asked the farmer what was the cause of this cruel act, he said I had no right to remain on the farm because my husband was dead. [The accompanying person adds: what the old lady is referring to is the farmer in eDumbe. I am a committee member looking after elderly people who are abused by farmers on the farms. In these farms eDumbe there are many problems and we ask the Panel to come and see gross human rights violations. There is a farmer who dug trenches that are leading to injuries and loss of lives. There are white farmers who still drag people with cars, when they see people they don't know on the farm, they pick them up with vans and tie them and drag them for long distances. There are white farmers who shoot at cattle and other livestock of farm dwellers. As I speak we left a person on one farm who was shot by the German farmers, the farmers destroyed houses and other property and so the person is now forced to live in a garage in a nearby school. His family was chased away and his livestock shot and killed. On the

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second of this month they threatened to evict other families and said they were going to set their houses alight. We have huge problems eDumbe, and we ask for your assistance. This old women has nowhere to stay. As I accompany her, she is partially blind. Who else can she turn to besides the government? We urge the Panel to assist us. We have confidence in our government that our problems will be attended to.]

**Nompumelelo Mbeje, Eston (2:18:06):** There is a portion of land that has been allocated from the farm we live on but the land is not enough. The farmer deceived the people by allocating a small portion of land they cannot build on and farm and have a graveyard because the white farmer has given strict orders that no one must be buried on his farm. Also, access to water is difficult and we stay without water for days. There are no toilets because the land is very small. What we ask for is that government must build communal toilets because at the moment the situation is unbearable. We also urge the government to provide services for the youth as the young people are neglected. Very few young people enroll to study in high schools, and very few study beyond Matric and so we ask for the government to intervene and provide opportunities.

**Siphiwe Zuma, uMsunduza (2:20:28):** Most has been said. The delay in processing of land claims is hurting us. Lately we are required to pay R200 and more each time there is a meeting to submit documents or to hear about the status of our land claims. There are long registration tables where we must list our names and submit tables, and we are asked of late to pay money when submitting documents. Is that official? In 1998 we submitted a land claim, and we are still waiting. If we were trained in workshops on how we should submit our claims, and an explanation was given that we must not accept cash payments but claim our land back so that even the future generations can live and work on the land. Thank you.

**D.M. Mtolo, Richmond (2:22:24):** The first issue is about not having a traditional leader in Esimozomeni KwaMagoda. The land is invaded all the time, there is tension and fighting. There is land to farm but no support from government with agricultural



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implements. There is a problem with delays in the finalisation of claims to such an extent that a lot of claimants are dying still waiting to get their land back. In some places there are uncompleted construction projects that have turned into dens for criminals that are terrorising the community. We ask for government to encourage investors to create job opportunities in our areas. We have stone quarries that are exploited by construction companies without benefiting local communities. The cellphone masts are erected all over but there is no benefit to the local communities. There are complaints everywhere. We urge the Panel to intervene and consider these issues. Thank you.

**Zebulon Dlamini, Babanango (2:24:40):** The main issue I wish to present to the Panel is that in 2013 the local traditional leader met with the President of the country in Nkandla about the problems in the area because since the dawn of democracy the traditional area has not tasted freedom. The President listened to the concerns of the traditional leader and advised that a written submission be made to the relevant government department, and that was done. On January 09 the submission was made by the traditional leader and on January 22 the traditional leader met with MEC Dube-Ncube in the President's home in Nkandla where the MEC took a decision to visit the traditional court to hear about the matter. Indeed she came and listened to the oral submissions that confirmed the written submission made earlier on. She undertook that she would attend to the matter and resolve whatever needed to be resolved. It was on January 2013 then. But she came back on July 10 and up until now the matters have not been resolved. The traditional community has no freedom, as if they are in Robben Island. We urge the Panel to take this matter to the President directly, about the traditional leadership under Ntombela in Babanango. I would be pleased if by the end of this year we can get a report, because I will again go back to the traditional council to inform them that I have made this submission to this Panel today. Thank you

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