

Call for participation in land expropriation draft bill

The Parliamentary Ad Hoc Committee appointed to initiate and introduce legislation amending section 25 of the Constitution has published the long-awaited draft Bill with calls for written submissions by 31 January 2020.

Vumelana Advisory Fund is making a strong call for all key stakeholders and South Africans, in general, to participate by making inputs on the draft Bill and engaging with the process in order to ensure a fair representation of different voices, as the country forges ahead in amending Section 25 of the Constitution.



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"As we all are looking forward to taking some rest during the festive season, it is important to not forget our civic duty. All key stakeholders and South Africans, in general, should commit some time to review the draft Bill and prepare to engage with the parliamentary process before the closing deadline for public commentary on the Bill," said Peter Setou, chief executive of the Vumelana Advisory Fund.



Land expropriation draft bill open for public commentary

Claudi Nortjé 10 Dec 2019



He highlighted that while it is important to engage with the process aimed at amending the Constitution, it is equally important to urgently address the current challenges besetting land reform and accept that most of these will not be addressed through a constitutional amendment. The challenges faced by the current beneficiaries of land reform must be addressed since failure to do this will only compound the problem as more land gets acquired.

Setou emphasised that given a broad acknowledgement that constitutional changes alone will not resolve major issues, a lot still needs to be done to resolve the land issue in a progressive and inclusive manner; and recommends the following:

- There is a need to balance the manner in which land is acquired and used. The debate on land expropriation without compensation (EWC) has somewhat reduced the land reform question to one of acquisition. However, the important question of what happens once the land is acquired and transferred remains largely ignored. This requires urgent attention if we are to meaningfully improve the lives of ordinary South Africans.

- The restitution process has to be streamlined and two areas require urgent attention. During the first round of land claims, 90% of the claims were settled through financial compensation. It is highly likely that this will be the case once the new window is re-opened. If this process can be speedily and fairly completed a large portion of restitution claims can be finalised.

On the other hand, high value, large scale and complex claims have taken decades to resolve. It is important that we acquire access to skills needed to ensure that these claims are dealt with expeditiously thus saving jobs and continued operation of existing businesses to the benefit of the land reform beneficiaries. The use of experienced transaction advisors to negotiate the viable commercial transaction on large and high-value claims will ensure that communities can meaningfully benefit from land reform and avoid intra-community disputes.

- There is a need to increase resources earmarked for support to claimant communities. This will require adequate resources to regulate and support CPAs.

- It has become evident that there is a need to set up an Ombuds scheme, to give community members the means through which their disputes can be speedily resolved.

- The current redistribution programme must be more transparent, to provide clarity on who is eligible and not eligible to apply.

- Post settlement conditions for land reform beneficiaries must be improved. This will entail a clearer assessment of community needs and aspirations including post-settlement use to limit chances of failure. Without access to finance and organisational support failure is guaranteed. Beneficiaries need to be supported to ensure sound governance to minimise conflict and corruption.

- Conflicts associated with tenure reform need to be resolved. Unclear tenure and complex procedures associated with communal areas or land under control of chiefs discourage investment.

- Funding, as well as the capacity of the state to implement land reform, needs to be significantly addressed. This was also identified in the Motlanthe High-Level Panel Report. Limited state capacity slows land reform and we need to tap into the goodwill displayed by the private sector and other non-profit organisations to address this.

- We need to develop innovative mechanisms for financing land reform. It is an established fact that demand on public resources exceeds the available funds. There is an urgent need to look at how to unlock innovative financing of land acquisition for land reform purposes particularly in respect of high-value land parcels. We also need to explore how restrictions to access to finance can be addressed. The private sector has an invaluable role to play in this regard.

- Communication with South Africans going forward will be critical. Role-players in the land reform space need to communicate clearly, manage high expectations, share some success stories on what has worked to give people hope and collectively condemn illegal activities.

"Speeding up land reform will not resolve all our socio-economic challenges in one fell swoop, but if done effectively, it can go a long way towards giving closure and creating a conducive environment where everyone has an opportunity to thrive and prosper," concludes Setou.

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