NATIONAL RESTITUTION WORKSHOP EXECUTIVE SUMMARY

INTRODUCTION

In line with the Comprehensive Rural Development Programme’s model of social mobilisation and empowering rural people to take charge of their destiny, a series of consultative workshops in all Provinces were convened by the Department of Rural Development and Land Reform between December 2010 and April 2011. These workshops were made in an effort to gain an in-depth understanding of the challenges facing the settlement of land restitution claims, sustainable development of land for those that have received land through the restitution programme, and to align the programme with the broader rural development vision.

On 6 to 8 May 2011 a National Restitution Workshop was convened to review the impact of the restitution programme. The workshop was attended by beneficiaries of the restitution programme and those whose land claims had not been resolved. The national workshop was to take stock of the successes of the restitution programme, its shortcomings, and what needs to be done for the programme to be a success.

The 1296 delegates attending the workshop indentified successes, shortcomings and came up with recommendations.

SUCCESSES OF THE RESTITUTION PROGRAMME

- Restoration of human dignity by restoring land rights that were dispossessed as a result of unjust laws of the past, payment of financial compensation for such disposessions, or the provision of alternative land; thereby unlocking development for communities and creating employment opportunities, and other socio-economic benefits;
- Beneficiaries have been provided with an opportunity to participate in the mainstream economy;
- Implementation of the restitution programme has limited the risk of land invasions; and
- Successful restitution projects are able to provide employment, socio-economic upliftment of communities (e.g. building of schools and other public amenities, provision of bursaries, etc).

SHORTCOMINGS OF THE RESTITUTION PROGRAMME

- Limitation of the right to restitution by the imposition of the 19 June 1913 and 31 December 1998 cutoff dates;
- Implementation of the “willing buyer, willing seller” principle;
- Manipulation of the land prices;
- Poor inter-governmental relations, resulting in poor planning and coordination;

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The awarding of prospecting and mining rights to third parties by the Department of Mineral Resources on claimed land, and on land that has already been restored;
Settlement of claims without the issuance of Title Deeds to beneficiaries;
Delays in finalising claims on, and disposal of, state land to beneficiaries;
Disputes between tribal authorities, communal property institutions and beneficiaries;
Passing away of elders without receiving redress, and leaving with critical historical information;
Lack of settlement and development support after land has been restored to the restitution beneficiaries;
Alleged corruption, collusion and incompetence of employees of the Department;
High staff turnover and attrition rate
Imposition of service providers, strategic partners to beneficiaries, by the employees of the Department
Failure to provide development grants, farming implements, and other necessary infrastructure;
Poor understanding of the Restitution of Land Rights Act by officials and poor research methodologies leading into litigation by those affected by incorrect decisions;
Slow pace in the finalization of cases referred to the Land Claims Court; and
No legal representation of claimants in disputes before Courts.

PROPOSED REMEDIAL ACTION

Review of restitution cut off dates, i.e. 19 June 1913 and 31 December 1998;
Social facilitation and mobilisation, capacity building, institutional facilitation and enterprise development to beneficiaries;
Improve communication between the Department and its stakeholders (develop and implement a community outreach programme);
Establish National, Provincial and District Fora for improved communication between beneficiaries themselves, and beneficiaries with the Department.
Train, capacitate and employ rural youth in developmental projects within their local municipalities;
Ensure monitoring and evaluation of projects and measure the impact the restitution programme has on the beneficiaries’ lives;
Create Department’s capacity by filling of all vacant posts in the Department;
Conduct skills audit on employees of the Department and provide training to those who require it;
Improve operational efficiency of the employees of the Department;
Issuance of title deeds where land has been transferred to beneficiaries;
Eradicate corruption and undue influence to employees;
Make developmental grants available swiftly;
Fast track the Recapitalisation and Development programme to all restitution distressed farms;
Review the “willing buyer, willing seller” principle;
Review of legislation and policy on the issuance of prospecting and mining licenses, communal property associations, management of trust property, development of claimed land prior to the settlement of the claim;

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Provide adequate resources to the Department to enable it to settle more claims, and provide the required developmental support;
- Clarify the role of traditional leaders in land administration;
- Improve inter-governmental relations, planning and coordination (with all spheres of Government);
- Engage with the Department and Minister of Mineral Resources on the issuance of prospecting and mining licenses;
- Engage with the Department and Minister of Justice and Constitutional Development to capacitate the Land Claims Court so as to increase the pace of finalization of cases before the Land Claims Court;

WAY FORWARD

The process to implement the recommended action by the Department of Rural Development and Land Reform shall be as follows:

- Develop an action plan that is specific, measurable, achievable, realistic and that has timeframes by 27 May 2011;
- Present and discuss the action plan with the National Council of Stakeholders by 28 May 2011 and report progress of the action plan, bi-annually, to the National Council of Stakeholders thereafter.

The workshop expressed its gratitude to the Ministry and Department for the opportunity to provide their input and also for Government’s recognition that it cannot successfully implement the restitution programme on its own.

DIRECTOR GENERAL
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