

GUIDELINES FOR WRITING SUBMISSIONS: THE RESTITUTION OF LAND RIGHTS AMENDMENT BILL

This document provides guidelines if you would like to make a submission to Parliament to let it know what you think of the new Restitution of Land Rights Amendment Bill.

GENERAL GUIDELINES

- The most important thing is to give concrete examples of problems in *your* area and how the Bill would affect these underlying problems.
- It is best to write in very simple and straightforward language (English or any other) and to avoid using long words or legal terms.
- Try to write from the heart.
- It is fine if you want to use your own structure and order, but try to cover the issues set out below. Remember that the day may come when you could be cross-questioned about your submissions in parliament so be sure to have your facts right.
- Remember, too, that each group has the right to say what it likes. In fact, it is better if the submissions are *not* all the same.

FORMATTING GUIDELINES

- Use a letterhead, if you have one. If you don't, just include your address and the name of your organization on the top right hand side of the page.

- If you are not a formal organisation you can refer to yourselves as 'ad hoc committee', 'land rights committee', 'community forum' or whichever term you choose. Just make sure that you include a place name in the title you choose.
- Include the date of your submission.
- Your submission should be addressed as follows:

Phumla Nyamza,
Portfolio Committee on Rural Development and Land Reform, Parliament of
RSA,
P.O. Box 15, Cape Town 8000

You can also email your submission to: panyamza@parliament.gov.za

Or fax it to: 086 504 6848.

In addition to the written submissions, please state your interest in making a verbal presentation to the Committee.

- You need a subject line that is bolded and/or underlined. For example:
Submission on the Restitution of Land Rights Amendment Bill by [Fill in Your Organisation's Name]

CONTENT GUIDELINES

- There are three main parts to a submission:
 - The first paragraph should *introduce* who you are and why the Bill is relevant to you.

- The middle part of your submission should explain the *problems* your members currently have, and then explain how the Bill would affect those underlying problems.
- Finally, you need to make clear *recommendations*.

The next part of this guideline will set out some questions you might want to consider. It is important to read the fact sheet first, which will give you the background to these questions. There is no need to stick to the order of these issues, or even to these points. They are meant only to help you think about how the Bill might affect you.

Remember even a one page submission is better than no submission at all. Unless you submit a written submission, you are unlikely to get a chance to make oral submissions to Parliament in Cape Town when the time comes.

POSSIBLE PROBLEM AREAS

- **OUTSTANDING CLAIMS**

There is a backlog of over 20 000 claims that have not yet been fully resolved. This makes up 25% of the total claims lodged since the beginning of the restitution programme. We are aware that many restitution claimants have been waiting to have their claim resolved (this includes the transfer of title or post-settlement support) for over 10 years.

- Do you have an unfinalised claim?
- If so: give as much detail as possible:
 - When was the claim lodged?

- Why, in your view, hasn't it been finalised?
 - Did the Commission not accept or support your Community Property Association (if you had one)?
 - Did traditional leaders interfere with the process?
 - Has there been any communication to or from any government bodies? If so, include the details and dates thereof.
 - Have there been any court orders? If so, include as much information as possible about the case.
- You should attach copies any correspondence that you refer to, as well as any court orders you may have received
 - What effect, do you think, would the lodging of many new claims (some of them potentially overlapping with your own land) have on your claim, or on any land you may already have received?
- CPAs

The government's current policy is to discourage the formation or registration of CPAs (and other community structures) on communal land. It has already delayed transfers of restitution land to CPAs in some provinces because of complaints by traditional leaders that CPAs undermine their authority. The government also claims that it wants to do away with CPAs because they are structures that promote conflict and are badly managed.

- Are you a member of a CPA, trust or any other community land-holding structure?

- If so, please describe it.
 - What have been some of your successes?
 - What have been some of the problems that you have experienced? Please give detail as to what the problems were, and how they came about.
 - What do you feel about the government's policy to discourage CPAs?
 - How would you respond to the government's claim that CPAs by their nature cause conflict and bad management?
- TRADITIONAL LEADERS

The Bill opens the door to traditional leaders to claim ownership of restitution land on behalf of 'tribes' that were delineated in terms of the Bantu Authorities Act of 1951.

- How do you feel about this?
- Does your community recognise a traditional leader?
- Would you like the official traditional council for your area to own restitution land on your behalf?
- Let parliament know your experiences with traditional leaders, whether good or bad, in connection with land.

- COST

When you read the Bill together with other policies, and recent judgments by the courts, it seems that restoration of land will be made dependant on the cost to the Department of doing so. In other words, if it is too expensive for the government to restore the land, (as judged by the government and the courts), it will not have to restore it.

- What do you think about this?
- Do you think that its fair that even if you have a constitutional right to the land the government can say it doesn't make economic sense to transfer the land to you?

The new policy also implies that land will only be restored if you intend to conduct commercial farming on it.

- What do you think of this policy?
- Explain how you currently use land, and how you plan to use land in the future, should it be restored to you.

According to these other policies, it will become important that you remain 100% productive on the land, or else the government can take the land away from you.

- What do you think of this policy?
- What will it mean for you?

In light of what has been said above, what do you think of the fact that the reopening claims is estimated to cost between R129 and R179 billion?

- CONSULTATION

- It is very important to include a section on *consultation*. You need to explain when and how you found out about the Bill and, if there has been no communication about its contents by government or parliament, you need to set that out.
- You need to explain why you think it is important for ordinary rural people to be consulted about laws that will affect their lives. You should also add what kind of consultation you think is acceptable. For example:
 - people must be given enough time to respond;
 - government must advertise the Bill, as well as the procedures for public participation, in places and through mediums that rural people have access to (such as SABC radio stations);
 - consultation should take place in venues that are accessible to ordinary people even if this means that multiple consultations take place;
 - appropriate means to enable ordinary people's attendance should be provided.

RECOMMENDATIONS

Some of the recommendations you might consider are

- That the Bill should be withdrawn completely.

- That the Bill should only be passed if it first resolves outstanding claims before other claims.
- That the Bill should proceed, but with some changes. (If you pick this option, you must set out which changes should be made.)
- That the Bill should be passed exactly as it now is.
- That the government needs to undertake proper consultation with rural people, and, if so, what kind of consultation it should take.

In each case it helps to explain the reasons for your recommendation.

Good luck!