

Input by the Minister of Public Works to the National Government Workshop on Expropriation

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This Workshop comes at an opportune time for all of us in the government system. I am sure that we are all aware of our marching orders that were given on Friday by the President in his State of the Nation Address in Parliament. He said that from now on the whole of government will be marching to a new beat, a new tune: Business Unusual. This means that we cannot afford to treat our work in the same relaxed casual manner. We will all be expected to put down the foot on the accelerator and speed up all our processes and operations in whatever we do.

The President warned us that the people of our country, especially the poor, cannot wait forever for the finalization of strategies, workshops and more workshops. They want to see positive results as soon as possible. In fact it was the second time in two weeks that the

President has emphasized this point. He told his colleagues and fellow Heads of States and Governments at the AU summit in Ethiopia exactly the same thing: the peoples of Africa cannot wait forever whilst strategies and more strategies are refined. Just get on with the job at hand of providing development and poverty alleviation whilst you are refining strategies along the way.

So, as we meet here as government Departments that deal with issues of expropriation, we need to bear this in mind: it is Business Unusual. I am sure you all know that Cabinet tasked the Department of Public Works to undertake a thorough revision of the Expropriation Act of 1975.

A comprehensive revision has been deemed necessary to align the legislation to the Constitution and to the current pressing social needs. Right now there are too many pieces of legislation governing expropriation. These pieces lack uniformity in procedures of expropriation. We also need to change the spirit of the law. The present law deals with expropriation in a mechanical manner. It is a restrictive piece of legislation that restricts the state to expropriate only for “public purpose”. It does not comply with the Constitutional provision which state that the State can expropriate “in the public interest.”

We all know the history of dispossession in our country. In fact the introduction the draft policy to the expropriation Bill is a classic case of historical dispossession whereby Jan van Riebeeck, after a war of plunder in 1659, tells the Khoi leader Autshumao, that there is not

enough grazing land for cattle of both the colony and the Khoi-Khoi. When Autshumao asks about the rights of his people to their ancestral land, Van Riebeeck tells him: “We have won this country in a just manner through a defensive war, and it is our intention to keep it.” Just like that. The Khoi had lost their land and their cattle could not graze on it. That war set the tone to the history of dispossession for the next 350 years. The revision of this Act must therefore be seen as an attempt at correcting that historical injustice.

We need to confront the issue of land deprivation as a matter of urgency. Expropriation should be a mechanism that is available to the state to correct the historical injustices as well as social and public interest.

This Workshop should therefore point the way forward on the crafting of the new legislation. It should take into consideration, the many centuries of systematic exploitation and deprivation of land and property of black people in South Africa.

The primary object of the policy framework is to give effect to the Constitution. It is important that the ability of Government to expropriate property is regulated in accordance with the principles contained in the Constitution. Our new expropriation legislation must be infused with the spirit of equality, human dignity and the attainment of freedom. This is important if we are to reverse the legacy of centuries of dispossession.

The new law must give effect to the Constitutional obligation placed on the state by the Section 9 (2) that legislative and other measures must be designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination. Therefore as government we must bat for the underdog and pay particular attention to the public interest as defined by Section 26 (4) to include the nation's commitment to land reform and to bring about equitable access to all South Africa's natural resources.

Of course our Constitution also provides that expropriation should take place in terms of the law and where it will serve a public purpose in the public interest and subject to compensation. Due processes and procedures in expropriation, compensation and ratification of those decisions will be crucial aspects of the new law. That is why we are all here. We will need to harmonise all the pieces of legislation in existence so that the law that we will craft is fully compliant with the provisions of the Constitution.

Just a reminder again from the President: "But we will all agree that our society, and the poor specifically, cannot wait for strategies and dialogues and workshops – important as these may be... we will require a National War Room for a War Against Poverty bringing together departments such as Social Development, Provincial and Local Government, Trade and Industry, Agriculture and Land Affairs, Public Works and Health as well as provincial and local administrations, which will work with non-governmental organisations (NGOs) and business to identify the interventions requiredand implement them as a matter of urgency.

We shall this year attend to other specific priorities which are critical to the country's war against poverty, in pursuit of socio-economic inclusion. These are:

- speeding up land and agrarian reform with detailed plans for land acquisition, better implementation of agricultural support services and household food support, and improving the capital base and reach of the Micro-Agricultural Finance Institutions of South Africa (MAFISA) to provide micro-credit in this sector: focus will be placed on areas of large concentrations of farm dwellers and those with high eviction rates, and we aim to increase black entrepreneurship in agricultural production by 5% per year, and the audit on land ownership will be speeded up...”

It is abundantly clear from this that this year cannot really be business as usual. The fact that we have set ourselves a tight deadline of finalizing the new Act by the middle of this year is not idle wish either. We need the new Expropriation Act as soon as yesterday in order to confront the scourge of poverty and landlessness in our country.

I wish you well in your deliberations and I look forward to receiving concrete proposals from this Workshop so that we can move forward with the required speed.

I thank you.

