

## Restitution Amendment Bill Proposal: Cut-off dates

19 June 1913 and  
31 December 1998

Public Hearings, by Portfolio  
Committee on Agric & Land Affairs

29 May 2007



COMMISSION ON RESTITUTION OF  
LAND RIGHTS

1

## Purpose of Restitution

- ❖ Provide **equitable redress** to victims of racial land dispossession
- ❖ Provide **access to rights in land**, including land **ownership**, correct the skewed land ownership, contribute to redistribution of 30% of agricultural land.
- ❖ Foster national **reconciliation and stability**.
- ❖ Improve **household welfare**, underpinning economic growth, contributing to poverty alleviation, ensuring sustainable development
- ❖ Symbolic apology by democratic State for the wrongs of the apartheid & colonial Govts of the past. It was never meant to be a permanent feature of land reform.



COMMISSION ON RESTITUTION OF  
LAND RIGHTS

2

## INTRODUCTION

- The Commission receive many calls from relevant stakeholders for the re-opening of the cut-off dates.
- The purpose of this presentation is,
  - to look into the rationale of the cut-off dates
  - to discuss the remedies and proposals available to those who could not lodge a claim by 31 December 1998
  - Discuss the implications of re-opening the cut-off dates of 19 June 1913 and 31 December 1998
- To provide the response of Govt to the call of re-opening.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

3

## Cut-off dates

### 19 June 1913 and 31 December 1998

- **19 June 1913**
- The history of land dispossession in South Africa goes back to 1652 with the arrival of Jan van Riebeeck in the Cape.
- Many Africans were forced to enter into labour tenant arrangements with the white landed gentry.
- Others entered into sharecropping arrangements and land could not be bought freely but through a complicated and restricted trusteeship.
- All these led to the "tenantization" of all blacks living on farms

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

4

## Cut-off dates

### 19 June 1913 and 31 December 1998

- The first government of the 1910 Union of South Africa came up with the so-called native policy which was promulgated as the **Land Native Act of 1913**.
- This racial piece of legislation, together with similar ones, became the foundation of racial land dispossession in this country until the advent of the democratic dispensation in 1994.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

5

## Cut-off dates

### 19 June 1913 and 31 December 1998

- With the negotiation process for a new Constitution at CODESA, it was agreed that the date of 19 June 1913 will be the date from which land dispossession in South Africa will be considered.
- The pre 1913 land dispossession was related to colonial & tribal wars.
- One reason why 1913 was used as the upper limit was that the Native Land Act of 1913 was the first racially discriminatory piece of legislation promulgated, which took land from all blacks to one population group the whites.
- Pre 1913 land claims would lead to inter-tribal wars, the biggest claims would be only for the KhoiSan population

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

6

## Cut-off dates

### 19 June 1913 and 31 December 1998

- In terms of S25(7) of the Constitution of South Africa, (Act 108 of 1996) a person or a community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws and practices is entitled, to the extent provided by an Act of Parliament, either to Restitution of that property or to equitable redress.
- The Restitution of Land Rights Act, No. 22 of 1994 was therefore promulgated on 2 December 1994, to give effect to s25 of Constitution

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

7

## Cut-off dates

### 19 June 1913 and 31 December 1998

- **The cut-off date of 31 December 1998**
- It was decided to have a cut-off date for the lodgement of Restitution claims in order to determine the financial implications of restoration of land or financial compensation
- The initial cut-off date was 31 March 1997, where only 33 000 claims were lodged and as a result of the low numbers, the date was extended to 31 December 1998. A fair process was followed.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

8

## **“STAKE YOUR CLAIM” awareness campaign**

- The Commission in conjunction with the Department of Land Affairs and the National Land Committee and its affiliates, embarked on a very intensive communications campaign, namely the “Stake your Claim” awareness campaign with effect from 1 June 1998.
- This campaign also included interaction with NGO’s and the South African Council of Churches.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

9

## **“STAKE YOUR CLAIM” awareness campaign**

- The campaign targeted potential claimants who were forcibly removed as a result of racial laws and practices since June 1913.
- The target audience of the campaign was very diverse and widely dispersed throughout the country, including urban and rural areas.
- Forced removals were targeted primarily at Black, Coloured and Indian people in the urban and rural areas of South Africa.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

10

## **“STAKE YOUR CLAIM” awareness campaign**

- The campaign targeted the use of mass communication media, i.e.
  - advertisements on national and community radio stations in the 11 official languages
    - July to August and October 1998.
    - 988 radio spots on 16 different radio stations
  - Advertisements on television
    - September to November 1998
    - 11 high impact spots, i.e. before the news and sport programmes

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

11

## **“STAKE YOUR CLAIM” awareness campaign**

- Workshops in urban and rural areas
  - June to December 1998
  - More than 600 workshops around the country.
- Posters as well as pamphlets on how to lodge a claim
  - June to 31 December 1998
  - 600 000 Pamphlets distributed at various events.
  - Posters distributed at 700 trading stores countrywide
- Taxi rank promotions, distributing pamphlets and claim forms.
  - 1 June 1998 to November 1998
  - All major taxi ranks in the different provinces

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

12

## **“STAKE YOUR CLAIM” awareness campaign**

- Door –to door visits in the urban and rural areas
  - From June to December 1998
  - Urban and Rural areas countrywide.
- A toll free number call centre to assist potential claimants
  - June to 31 December 1998.
  - More than 2000 calls were received

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

13

## **“STAKE YOUR CLAIM” awareness campaign**

- Special events: September to December 1998  
Events such as Heritage Day and Women’s Day were used to disseminate information.
- Newspaper adverts: One of the late additions to the campaign as more funds became available.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

14

## CLAIMS LODGED BY 31.12.1998

- At midnight on 31 December 1998, 68 000 claims were lodged.
- The Commission then embarked on a validation process which brought the number of claims lodged to 79 696.
- The number of claims lodged ensured that the Commission could do strategic planning around the almost 80% of urban claims and almost 20% of rural claims which included the financial implications of the settlement of these claims.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

15

## Claims Settled as at 31 March 07

- Claims settled 74 417
- Urban claims 65 448
- Rural Claims 8 969
- Land (1 650 851 ha) R 5.2 billion
- Development Support R 1.5 billion
- Financial Compensation R 4.1 billion
- **Total Restitution Award R 10.8 billion**

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

16



## Requests for late lodgment

- It is common knowledge that about 6 million people were victims of land dispossession but only 10% lodged a claim.
- **WHY the requests for late lodgment?**
  - Most of the people did not lodge claims for patriotic reasons such as "I can't claim against my own government that I have fought for, for so long."
  - Others simply "did not believe that the return of the land would be possible."

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

17

## Requests for late lodgment

- Other simply just overlooked the campaign and realized after the final date of the cut-off date of 31 December 1998 and seeing the first land handover and also financial compensation claims, that "this thing is real."
- Most late requests were for financial compensation and **not** for land restoration.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

18

## Implications of the re-opening of 19 June 1913 and 31 December 1998

### ■ **19 June 1913**

- In the White Paper on South African Land Policy, the need is raised to consider the constitutional burden vesting with other national, provincial and local governments to administer and promote and/or support land reform.
- There is a need to co-ordinate the functions of the different spheres of government, both because of the constitutional requirement of co-operative government, and in order to achieve effective government.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

19

## Implications of the re-opening of 19 June 1913 and 31 December 1998

- It has been acknowledge through policy and law that, although dispossession took place during the colonial era prior to 1913 through wars, conquest, treaty and treachery, the government believes these injustices cannot reasonably dealt with by the Restitution Commission and the Land Claims Court.
- It is clear that government has taken a position which says re-opening would create a number of problems and legal-political complexities which would be impossible to unravel.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

20

## Implications of the re-opening of 19 June 1913 and 31 December 1998

- Land Reform in South Africa is not only Restitution but includes;
  - Redistribution of Land through LRAD and PLAS
  - Tenure Reform.
- Land Reform is also about the skewed ownership of land in South Africa where the majority of agricultural land is white owned land.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS


21

## Implications of the re-opening of 19 June 1913 and 31 December 1998

- Most of the critics of Restitution, such as NGO's like the NLC and research institutions such as PLAAS, are opposed to financial compensation as they support the common idea that it undermines the intention of government to change the skewed ownership of land.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

22

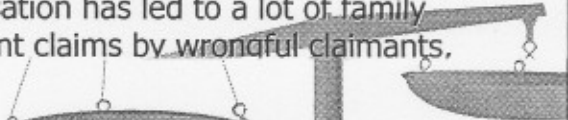


COMMISSION ON RESTITUTION OF  
LAND RIGHTS

23

## **Implications of the re-opening of 19 June 1913 and 31 December 1998**

- Financial compensation has led to a lot of family disputes, fraudulent claims by wrongful claimants,



COMMISSION ON RESTITUTION OF  
LAND RIGHTS

24

## Implications of the re-opening of 19 June 1913 and 31 December 1998

- Restitution is only one of three Land Reform Programmes.
- Other Land Reform Programmes, such as Redistribution (LRAD, PLAS and CLRA), and Tenure Reform, are relied on to ensure the 30% target of land redistribution by 2014 is achieved.
- As Government, other social economical programmes should also be addressed such as education, unemployment, HIV and AIDS and therefore to remove the mindset of having Land Reform operating in a vacuum as sole catalyst.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

25

## Remedies

- Persons who wanted to lodge a land claim for the restoration of land, after 31 December 1998, were referred to the Land Reform Branch of the DLA for assistance in terms of the other Land Reform Programmes, i.e. Redistribution, Tenure Reform and LRAD.
- Persons who do not have a valid Restitution claim requesting restoration of land, are also referred to the DLA. (S6(2)(b) of the Act)
- Persons with a dire need for land are recommended to contact the Provincial Offices of the DLA for assistance

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

26

## CONCLUSION

- The settlement of claims not only has a balancing factor on the property market, but also on the overall financial markets.
- In Restitution, commercial banks become reluctant to approve any loan on claimed land and the resolution of a claim, uplifts this uncertainty.
- To ensure economic stability and certainty on land ownership, the settlement of claims has to be finalised by 2008.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

27

## CONCLUSION

- Persons who are interested in access to land can still make use of the other Land Reform Programmes as mentioned in this presentation.
- Government therefore need to ensure that the remainder of the 30% of white owned agricultural land is redistributed by 2014 and this can now only be achieved through the other Land Reform Programmes.

COMMISSION ON RESTITUTION OF  
LAND RIGHTS

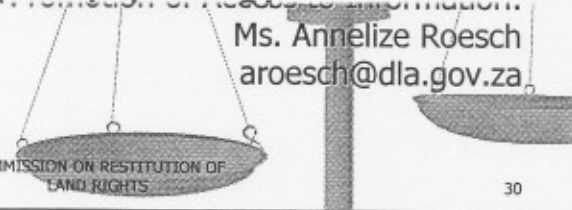
28

# I THANK YOU

**Mr. Tozi Gwanya**

Chief Land Claims Commissioner of Restitution of Rights to Information

Ms. Annelize Roesch  
aroesch@dla.gov.za



COMMISSION ON RESTITUTION OF  
LAND RIGHTS

30