



**A century of racial
land divisions in
South Africa:
Parliamentary
oversight for
reversal of the
legacies of the
Native Land Act,
1913**

Portfolio Committees: Rural
Development and Land Reform;
Agriculture Forestry and
Fisheries; Public Works
March 2013

Background



- Proposal for a Parliament-driven campaign to assess progress made on addressing the legacy of the Native Land Act, No 27 of 1913. This campaign is anchored on the reopening of the lodgement of land claims and faster pace of land redistribution to reverse the legacy of the 1913 Land Act
- Related legislation: The Development Trust and Land Act, No. 18 of 1936; and the Group Areas Act No. 36 of 1966
- The legislation resulted in an atrocious dispensation in the agrarian structure of South Africa, prohibiting ownership and rental of land, by Africans, outside of designated reserves which constituted approximately 7.13% SA total land area, increasing to 13% under the Development Trust and Land Act, 1936.
- SONA stated that this year marks a centenary for the Native Land Act, No.27 of 1913 which “... turned black people into wanderers, labourers and pariahs in their own land”.
- The legacy manifest itself in: unemployment, persisting poverty and deep inequalities; these are, to a large extent, consequences of policy mechanisms legislated more than a century ago when land-based livelihoods for black people were disrupted and destroyed through land dispossessions.
- Redressing the land dispossession that occurred since 1913, unequal land distribution and tenure insecurity is a Constitutional imperative, more urgent than ever.
- This year, 2013, also represents 18 years of attempts to redistribute 30% of white-owned agricultural land to the landless people.
- The President announced that South Africa will not meet its own target to redistribute 30% of white-owned agricultural land by 2014.
- The issue of unequal land distribution in South Africa remains unresolved and renders achievement of a socially cohesive society very difficult.



The project

- In the face of nation-wide events to mark the promulgation of the 1913 Land Act, a Parliament-driven campaign for agrarian transformation is proposed.
- It is anchored on oversight for restitution (reopening of lodgment of land claims, finalisation of existing claims and faster pace of land redistribution). It also centres on the principle of public participation, in assessing the performance of the Commission on Restitution of Land Rights, as well as government as a collective to address the challenge of land reform.
- The project commence in March, peaking in June when the proposed National Debate in the National Assembly is held. But post June, the PCs Rural Development and Land Reform; Agriculture Forestry and Fisheries; and Public Works should consider adopting and incorporating some of the emergent issues into their day-to-day oversight activities.
- Members of the public are central to this project, especially in overseeing the implementation of government programme and ensuring that the executive is accountable for its actions to **ensure that legacies of the 1913 Land Act are reversed.**
- The project will involve a three the Portfolio Committees mentioned above, but the issues to be covered involve various portfolio committees to be outlined later in this presentation.
- It is proposed that the Portfolio Committee on Rural Development and Land Reform 3 champion this project.

Rationale



PARLIAMENT
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- Given the persisting depth of rural poverty, unemployment and deep inequalities, + the manner in which the land dispossession has turned many people to 'wanderers, labourers and pariahs' on their own land, the land question remains a charged political issue.
- South Africa has not met the targets for land redistribution, land restitution claims remain incomplete, farm dwellers/workers live with insecure land tenure.
- Two major challenges facing land reform program at present are: need to speed up the transfer of land, and to support productive use of transferred land. The Green Paper on Land Reform (2012) also acknowledges that South Africa needs radical mechanisms to address the consequence of colonial and apartheid past land policies and the vision for land reform for political and economic emancipation remains compelling.
- Opening the lodgement of restitution has implications for legislative amendments (the Restitution of Land Rights Act, 1994); it further raises questions about what the CRLR will do differently to speed up finalisation of land claims; settlement patterns and production relations that supports inclusive economic growth and development.
- This project constitutes a range of mechanisms through which Parliament can drive a campaign for agrarian transformation, locating land reform within broader strategies for rural development.
- The project will deepen Parliament's understanding of the challenges of land reform and rural development broadly. It will also create space for enforcing accountability by the executive authority on matters related to the land reform, agricultural development and rural development.

Purpose



- To assess the extent to which the programme of land reform has reversed the injustices of racial land divisions initiated since the promulgation of the 1913 Land Act and creation of sustainable livelihoods for beneficiaries of the of the land reform programme. It will create opportunities for engagement with the members of the public and stakeholders about the opening of land claims and agricultural support for smallholders and emerging commercial farmers. It will further explore implications for the land policies.
- Particular objectives:
 - To understand the systems put in place for, and to monitor processes toward, the re-opening the lodgement of land claims.
 - To oversee the capacity of institutions (the Commission on Restitution of Land Rights) to implementation of policies and programmes that will result in a faster settlement of land claim.
 - To take forward a debate on the potential of land reform and agriculture to create jobs and alleviate poverty by bringing much of communal land and redistributed farms into full production.
 - To assess the extent to which integration of support mechanisms for the programme of rural development has impacted on productivity of agricultural land, infrastructure development in rural areas (including land reform farms and irrigation schemes).
 - To oversee implementation of the Extension of Security of Tenure Act No 62 of 1997 and the Land Reform (Labour Tenant) Act, no 3 of 1996 as an anti-eviction campaign.
 - To document the overall findings and observations of this project, explore policy implications and identify pertinent issues for further oversight and implementation by government departments.

Key questions



Restitution

- What are the practical steps put in place by the Commission on Restitution of Land Rights to ensure the reopening of the lodgement of the land claims by June 2013?
- Has the Commission developed clear guidelines regarding who is entitled to claim and how they should go about the claiming process? This should address the question of betterment claims, Khoi-San communities and other claimants who may have missed the deadline of 31 December 1998.
- In view of the 18 years of experience in settling land claims, what are potential challenges for re-opening the lodgement of land claims and how are these addressed in policy/legislation?

Redistribution

- What are the policy guidelines towards implementation of alternatives to the willing-seller willing buyer approach to land acquisitions under the land reform programme?
- How has the Agricultural Land Holding Account - for management of all Proactive Land Acquisition Strategy (PLAS) - projects' leases performed?
- To what extent can the programme of redistribution assist towards creation of smallholder farmers in South Africa? Identify impediments to sub-division of agricultural land for smallholders and investigate solutions to the impediments to support a range of beneficiaries (commercial smallholders wanting to expand, commercial ready subsistence producers wanting to expand part-time farming, and landless households seeking small pieces of land for subsistence production)?
- What are impediments in expropriation of land in the public interests?

Key questions



Post settlement and agricultural support

- What are the support needs for all the categories of land reform beneficiaries, including the black commercial farmers with potential to become large-scale farmers and financially capable aspirant black commercial farmers? How has government responded to the needs of farmers, and what are the impacts of such responses and interventions?
- What are infrastructure development programmes on farming areas, especially in areas where there is high density of land reform projects?
- Are there any successful agricultural cooperatives supporting emerging commercial farmers? What are the lessons that could be drawn for the beneficiaries of land reform programme?

Land tenure

- How can the existing challenges confronting farm dwellers and workers on one hand, and commercial farmers or land owners on the other, be addressed? The known challenges relates to lack of adequate basic services on some of the farm dwellers residents on commercial farms (education facilities, clinics, etc), insecure tenure, various kinds of human rights abuses.
- What are the alternative and preferable tenure arrangements for citizens living in the former Bantustans?

Key issues and stakeholders

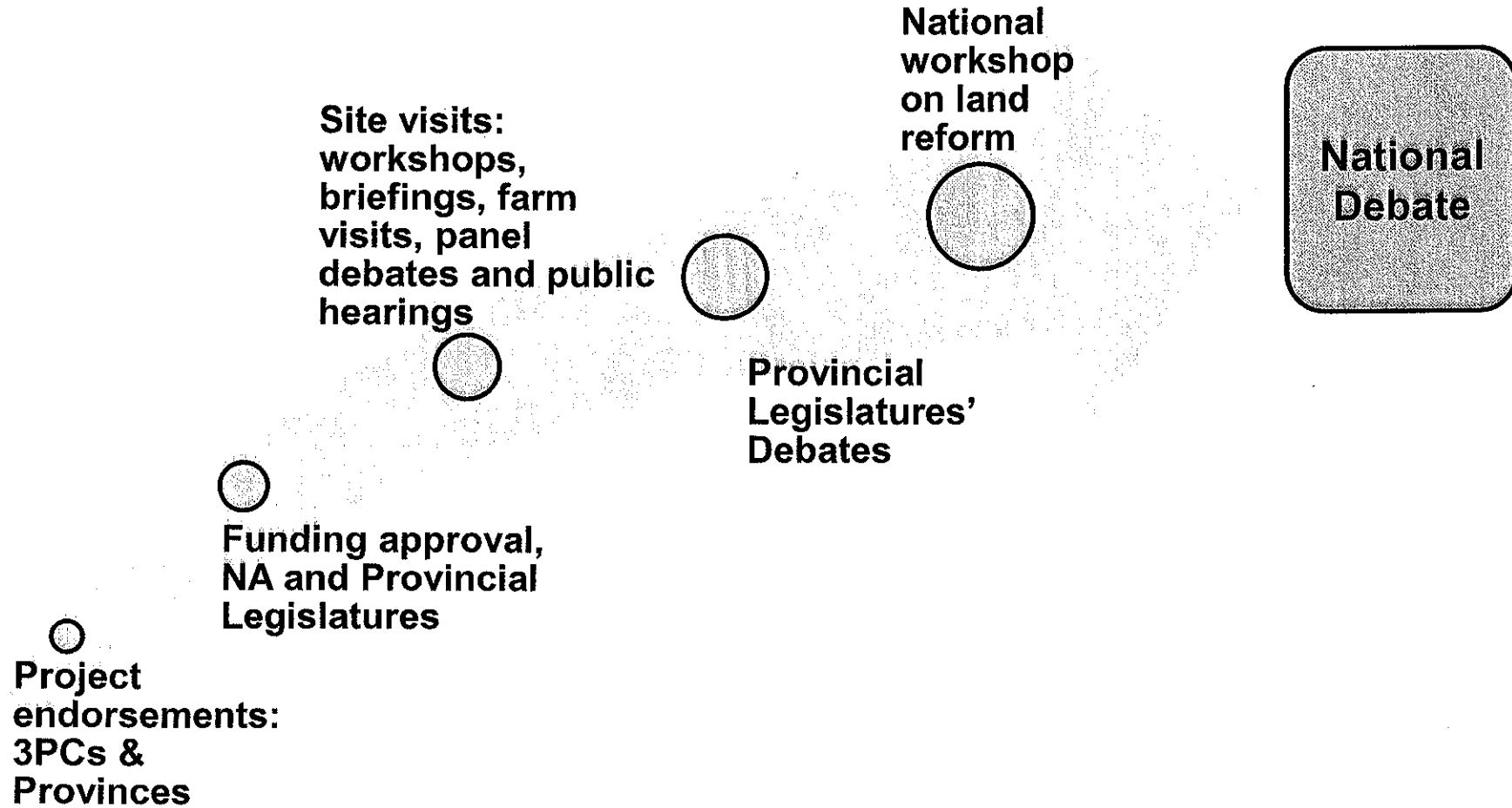
Focus Area	Key themes	Key Stakeholders
<ul style="list-style-type: none"> Restitution 	<ul style="list-style-type: none"> Audit of all restitution projects (research, negotiation, settled, finalised) Reopening of land claims Funding for restitution 	<ul style="list-style-type: none"> Department of Rural Development and Land Reform Commission on Restitution of Land Rights Institutions of traditional leadership National Treasury Claimants and land owners
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<ul style="list-style-type: none"> Land tenure 	<ul style="list-style-type: none"> Eviction Monitoring Provision of Legal Services Agri-villages Communal areas (former Bantustans) 	<ul style="list-style-type: none"> South African Police Services Department of Justice and Constitutional Development Department of Rural Development and Land Reform Department of Cooperative Government and Traditional Affairs Department of Labour
<ul style="list-style-type: none"> Agricultural support; Food security; and Training 	<ul style="list-style-type: none"> Comprehensive Agricultural Support Programme Mafisa Extension support and training Recapitalisation and Development Programme 	<ul style="list-style-type: none"> Department of Agriculture, Forestry and Fisheries Department of Rural Development and Land Reform Department of Science and Technology National Development Agency Land Bank Farmers Organisations, Land owners, mentors and strategic partners
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Possible participants in Parliament

Some of the focal areas	Committees
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Process Flow



Conclusion

- There is wide acknowledgement that the programme of land reform, including restitution, has not redistributed land at the pace anticipated and has failed to reach the target set.
- This project provides Parliament with an opportunity to engage the society about this very important matter, that affect the majority of the poor.
- It will further enforce its mandate to ensure that members of the public are central to all aspects of oversight and ensuring that the Executive is accountable for its actions.
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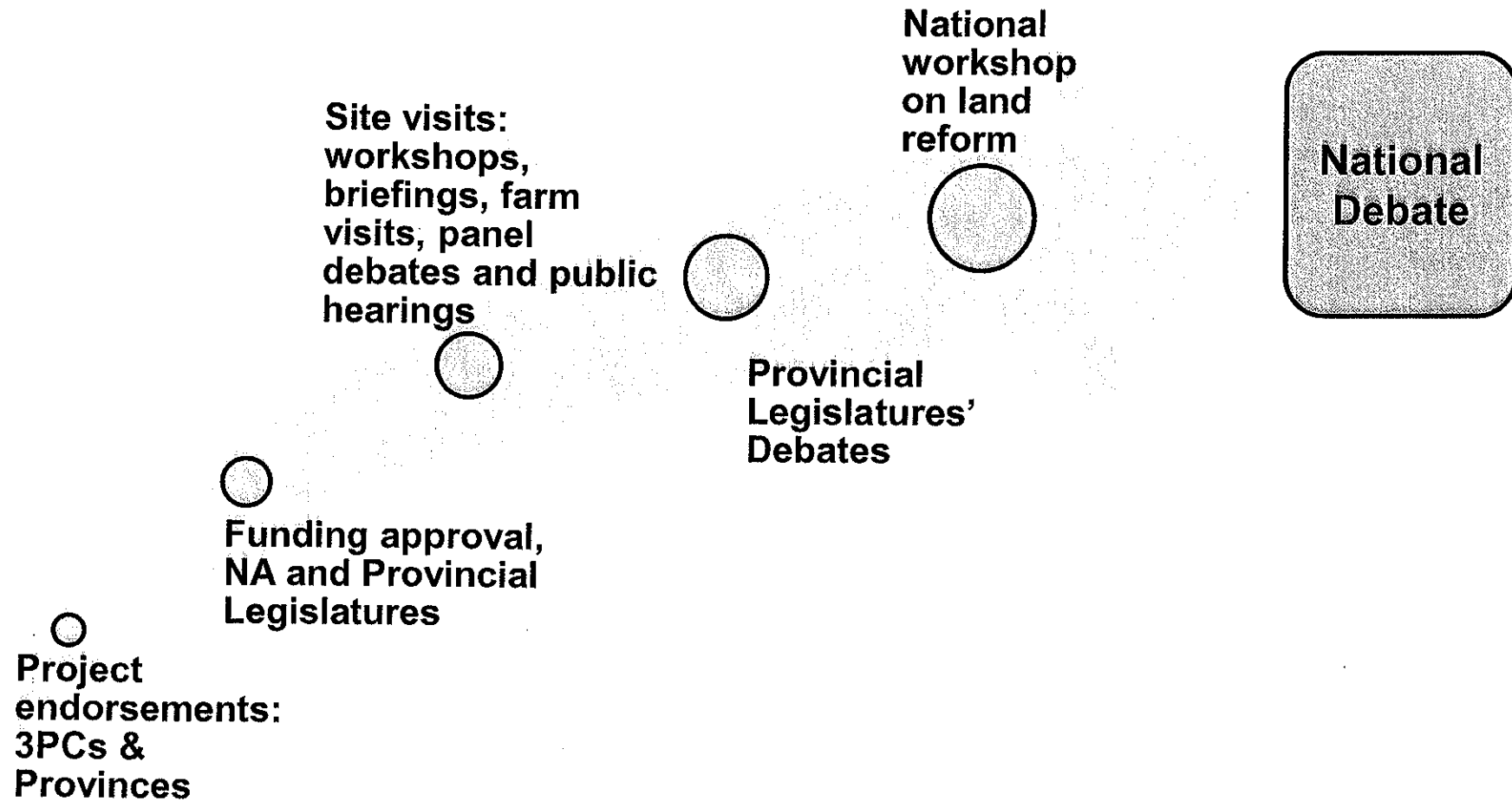
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Process Flow



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA





Conclusion

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THANK YOU

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