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| **COSATU Submission:**  **Upgrading of Land Tenure Rights**  **Amendment Bill**  **07 August2020** |
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1. **Introductionand Support for the Upgrading of Land Tenure Rights Amendment (ULTRA) Bill**

COSATU welcomes and supports the Upgrading of Land Tenure Rights Amendment Bill.

The Bill is progressive and seeks to address a constitutional deficiency within the founding Act of 1991 at the Constitutional Court’s direction. The founding Act is inconsistent with the Constitution’s anti-discriminatory principles, in particular with regards to women’s rights. This has meant in certain instances that women’s rights to upgrade land tenure rights to ownership were undermined or in certain cases prevented.

1. **Processes**

COSATU has participated in engagements on this progressive bill at Nedlac with government and other social partners.

The Federation appreciates the space provided for these important engagements by the Portfolio Committee.

COSATU however is concerned by a continuous trend by various departments whose legislation has been found to be constitutionally defective by the Constitutional Court and subsequently provided with 24 months to correct this through an Amendment Bill, to fail to meet these deadlines.

The Constitutional Court provided government and Parliament until the end of April 2020 to pass this Bill. It is now 5 months past this deadline. Parliament may only be able to ultimately pass the Bill by November 2020.

Such repeated delays by numerous departments and Parliament itself show a lack of political urgency by both government and Parliament. This tardiness has a massive impact upon workers, the poor, women and other vulnerable persons.

Parliament itself is empowered to pass legislation and must do so when government fails to. There simply is no excuse.

1. **COSATU Support for the ULTRA Bill**

COSATU supports this progressive and long overdue Bill in its entirety.  
The Federation’s support is based upon the following key provisions:

* Clause 1’s provisions providing for the upgrading of land tenure rights to ownership.
* Clause 2’s removal of discriminatory provisions that under the founding Act prevented women from holding land tenure rights or upgrading such land tenure rights into ownership.
* Clause 3’s proposed section which seeks torecognise conversions that took effect in the past and which favored womenand those that were made in good faith.
* Clause 4’s amending of section 25A of the Act by providing that the Actapply throughout the Republic.

These progressive provisions will benefit millions of South Africans who have long awaited the upgrading of land tenure rights into ownership. This will benefit both urban and rural residents. In particular it will benefit women.

1. **Conclusion**

COSATU welcomes and supports theULTRA Bill.The federation urges the speedy passage of the Bill by Parliament and its ascension by the President.

The Federations further urges Parliament to take up the commitment of the 5th Parliament to review all existing legislation, to identity any existing provisions that are discriminatory and unconstitutional and to provide for their speedy removal or amendment. This is long overdue 26 years into democracy.   
It should not take the repeated instructions of the Constitutional Court to do so.

Whilst supporting this progressive Bill, COSATU is concerned that the Department has not begun to develop the capacity to ensure its effective implementation. There is no point in having progressive laws on the statutes, if the state lacks the capacity to implement them, if it has no idea on who requires relief from the law, if the public has not been made aware of it and does not know how to exercise their constitutional right to its provisions.

The Department of Agriculture, Land Reform and Rural Development has been particularly weak in this regard. It has passed progressive laws and once assented to, simply left them to collect dust on bookshelves and failed to promulgate the legislation in full or undertaken the necessary practical steps to make the laws a living reality.

Parliament needs to undertake its oversight role in this regard much more seriously. Frequently it passes progressive bills and then does not hold the relevant Department accountable for their implementation.We hope the 6th Parliament will be different.

COSATU hopes that its submission will assist the Portfolio Committee with its critical task in ensuring the speedy passage and implementation of the ULTRA Bill.

Thank you.

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| cid:image005.jpg@01CC26CB.2C4815C0 | Matthew Parks  Parliamentary Coordinator  Cell: 082 785 0687  Email: [matthew@cosatu.org.za](mailto:matthew@cosatu.org.za)  6th Floor, Constitution House  124 Adderley Street,  Cape Town 8000  South Africa |