



**The Special Master of Labour Tenants  
presentation to the  
PORTFOLIO COMMITTEE  
on Agriculture,  
Land Reform and Rural Development**

A labour tenant in a participatory mapping session at Paulpietersburg, KZN.



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# AGENDA

1. Introduction and Background
2. Claims resolution methodology
3. Successes
4. Challenges
5. Way forward







# INTRODUCTION AND BACKGROUND



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- The instrument of the Special Master is a creation of a Constitutional Court ruling, not a departmental or executive innovation. The Special Master of Labour Tenants (SMLT) came into office on 1 January 2020 and established an office which now has a staff complement of three plus one seconded official;
- It was brought about because the Department had not been able to resolve labour tenant claims expeditiously and in sufficient numbers since the passing of the Land Reform (Labour Tenants) Act of 1996.
- In that time since the passing of the legislation, an effective system of claims processing and resolution claims was not developed. Adequate and appropriate human resources were not deployed. And there was inadequate records management.
- Since the appointment of the SMLT, it has, in collaboration with the Department, developed an Implementation Plan for the resolution of labour tenant claims as required by the Land Claims Court (LCC). The LCC has since approved the plan;
- A dedicated database for labour tenants' claims has also been developed and is now fully functional to support the resolution processes, curing the absence of effective records management of the past; and
- A revamped methodology for resolving claims has since been introduced



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**IN SUM, BY THE *MWELASE JUDGEMENT*,  
BOTH AT THE LCC AND THE CONCOURT,**

**THE COURTS UNDERSCORE** that the LCC has a supervisory role over the Department's labour tenants' claims resolution function. The Special Master of Labour Tenants was appointed by the Court to exercise this supervisory role on its behalf. By this act, the Court intends that all labour tenants' claims processing within the DALRRD, including those requiring approvals or certifications, must bear the result of the prior SMLT's quality assurance review. This is to ensure that all phases of labour tenants' claims resolution processing meet quality standards, comply with the LTA, and are processed expeditiously and efficiently.



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# THE SMLT'S REVAMPED CLAIMS RESOLUTION METHODOLOGY

As opposed to what used to be the norm in the past, the SMLT's claims resolution methodology now takes into account three voices:

- The voice of archival documents – s16 applications, s17 notices, when they exist
- The voices of the labour tenants, through the narration and recording of their life histories
- The voice of the land itself through landmarks of ancestral graves, homestead relics and unerasable evidence gathered through geospatial investigations and field walkthroughs.





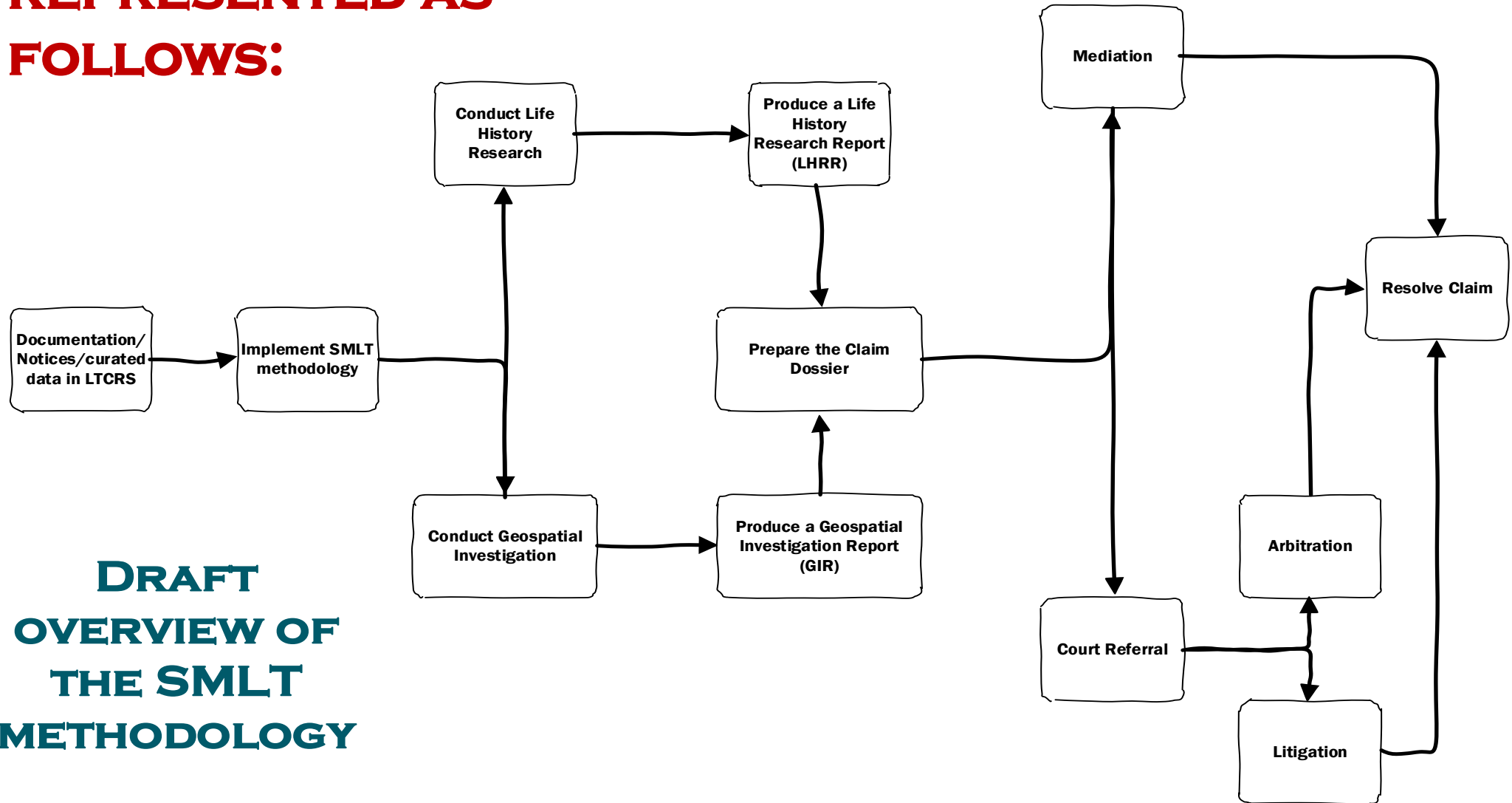


# THE METHODOLOGY IS SCHEMATICALLY REPRESENTED AS FOLLOWS:



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## DRAFT OVERVIEW OF THE SMLT METHODOLOGY





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The revamped methodology is currently being implemented in the following farms under the ambit of the MACRI:

- Kleinfontein ■ Koppermyn ■ Pietersburg ■ Ravensworth,
- Wilverdiend ■ Wydgelegen ■ Wijdgelegen ■ Beestehoop
- Eersteling ■ Geelhoutboom ■ Geluk 723 ■ Glen Eland ■ Hilton
- Holkrans ■ Jagdrift 359 ■ Jericho ■ Jindon ■ Kaapmuiden
- Kleinwaterval ■ Leeuwfontein ■ Mawela
- Nooitgedacht ■ Rockley ■ Sluis
- Springboklaagte and ■ Isinuka.



# SUCCESSSES



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- a) Developed and secured the Court's approval for the implementation plan that the Court had called for from the Department for years without success;
- b) Introduced international best practice approach of mass claims processing to the claims resolution process;
- c) Introduced a revamped claims resolution methodology overlaying geospatial investigation and life history research on the claims resolution process, making them necessary components to incontrovertibly establish the veracity of claims to ensure that they are fairly and equitably resolved.
- d) The SMLT has worked on over 600 claims to date as opposed to the 450 claims indicated in the Department's records and uncovered incidences of lost claims.
- e) Through the SMLT fieldwork, fraudulent transactions have been uncovered. The SMLT has readily brought these to the attention of the appropriate authorities. The B-BBEE Commission has confirmed a case of fronting and misrepresentation in one of the transactions. The amount involved in this transaction is about R115M.
- f) The SMLT spearheaded the development of a now functioning claims resolution system – the Labour Tenants' Claims Resolution System (LTCRS) from scratch, thereby institutionalising the digitisation of claims resolution processing





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# SUCCESSES CONT'D

- g) The SMLT has begun the process of institutionalising scientific project management discipline in the team involved in labour tenants' claims processing
- h) The institutionalisation of a learning and engagement platform through which Departmental officials and labour tenants engage and develop needed skills
- i) Standardised the backing up of claims records and documents digitally and in hard copies.
- j) The re-engineering of the claims resolution operating procedures and the review and revamping of the standard operating procedures
- k) Commenced the implementation of the multisite accelerated claims resolution initiative (MACRI).
- l) A lost claims strategy has been devised alongside the Department and AFRA, and is in the process of being finalised
- m) Successfully held the first-ever labour tenants' assembly, giving labour tenants from across the country a platform to engage with relevant stakeholders.



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# CHALLENGES

- Two and half years' delay because of COVID-19;
- Over **14 years cumulative delays** in the Department responding to various court orders relating to operational issues or providing needed resources—the SMLT has a compliance register that details these delays;
- Non-implementation of the revamped methodology's standard operating procedures (SOP) and its interim alternative detailed in a Practice Note;
- The performance of the DALRRD in resolving labour tenants' claims is unacceptable
- The apparent lack of clarity in the SMLT's role in the resolution of labour tenants' claims;
- Lack of consistency of cooperation and availability of staff in the provinces and districts—the SMLT has operated for months without DALRRD staff on the ground;
- SMLT-trained DALRRD staff have been lost due to poor employment contract management
- The SMLT remains under resourced in terms of professional staffing and support personnel;
- The issues of lost claims and unreliability of labour tenants' data remains vexing;
- The quality and timeliness of legal representation for labour tenants are inadequate;
- Post-settlement support for labour tenants is remarkably inadequate and in many cases, non-existent;





# THE WAY FORWARD



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- The SMLT is determined to continue to work with a broad-based universe of value adding stakeholders through the **SMLT Partnership Network** to get labour tenants' land claims resolved in a way that sustains livelihoods and supports sustainable community development;
- The SMLT is alive to the reality that government alone cannot provide all the resources needed to resolve all labour tenants' claims. It is thus working with stakeholders to establish the **Labour Tenants' Rights Affirmation Fund (LTRAF)**, a broad-based funding vehicle to supplement government funding. Even before formally launching the fund, the **Claude Leon Foundation** has already donated **R500 000** to support the work of the SMLT
- The SMLT seeks the approval and implementation of **SOP** and its **Practice Note** without further delay
- The SMLT wishes to have **closer and more active collaboration** from officials for its work
- The SMLT urges the Department to fully acknowledge and embrace the **supervisory, monitoring, and oversight responsibilities** that the LCC has entrusted to it.
- The SMLT requests that the Department accelerate the recruitment process to fill its required **professional and support staff positions**.





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# THANK YOU