**NATIONAL COUNCIL OF PROVINCES**

**QUESTION FOR WRITTEN REPLY**

**PARLIMANTARY QUESTION NO: 45**

**DATE OF QUESTION: 21 FEBRUARY 2020**

**DATE OF SUBMISSION: 6 MARCH 2020**

**Ms M O Mokause (Northern Cape: EFF) to ask the Minister of Justice and Correctional Services:**

One of the major problems with the adjudication of land rights disputes is the fact that the Land Claims Court has no permanent judges. Have you considered reconfiguring the Land Claims Court into being a full time court, with at least twelve permanent judges?

**REPLY:**

The Honourable Member is correct that one of the problems with the adjudication of land rights disputes is the fact that the Land Claims Court has no permanent judges.

The Restitution of Land Rights Act, 22 of 1994, established the Land Claims Court to adjudicate land claims. The Court also has jurisdiction to hear and adjudicate other land reform matters pertaining to the Extension of Security of Tenure Act, 62 of 1997, and the Land Reform (Labour Tenants) Act, 3 of 1996. In terms of the existing legislative framework, Judges, of the Land Claims Court, including its Judge President, are seconded from the Divisions of the High Court randomly. The lack of a permanent bench for this important court is one of the contributing factors in South Africa falling behind in the development of land jurisprudence.

The Department of Justice and Constitutional Development has been mandated by the Inter-Ministerial Committee on Land Reform, which I chair, to develop a new Land Court Bill to address this challenge and a draft Bill has already served before the IMC. It is expected that the Bill will be presented to Cabinet within the next few months once it completed the internal consultation processes.

It is anticipated that the Land Court will have exclusive jurisdiction in respect of matters which demand expertise and speciality in resolving land disputes. An incremental approach might have to be followed towards defining the Court’s jurisdiction, the first step of which is to include those Acts of Parliament that facilitate the promotion of the vision enshrined in section 25 of the Constitution in respect of land reform, under the jurisdiction of the Court. The jurisdiction of the Court can then gradually be expanded to also deal with disputes arising from the administration and implementation of other legislation that regulate land reform and other land rights matters.

The President has, pending the finalisation of the Land Court Bill, approved creation of three additional positions of Judges, two in the Gauteng Division and one in the KwaZulu Natal Division, to hear exclusively land matters. The Judicial Service Commission will conduct interviews for these positions during its sitting of April 2020.