

Committee approves report on Land Courts Bill

The Portfolio Committee on Justice and Correctional Services has adopted the report on the Land Courts Bill following public hearings on the bill.



Image source: Getty Images

The purpose of the bill is to provide for the establishment of a Land Court and a Land Court of Appeal and make provision for the administration and judicial functions of the Land Court and Land Court of Appeal.

Committee Chairperson, Bulelani Magwanishe, said the committee held public hearings on the bill earlier this year and received written presentations from several stakeholders who had not indicated the need to further elaborate during oral submissions on the bill.

The bill also aims to make provision for budgetary matters, provide for the exclusive jurisdiction of the Land Court and Land Court of Appeal for certain matters, and provides for mediation and arbitration procedures and amends certain laws relating to the adjudication of land matters by other courts.

Magwanishe said the Restitution of Land Rights Act of 1994 establishes a Land Claims Court with exclusive jurisdiction in respect of restitution claims arising from the Act.

It also has exclusive jurisdiction to deal with matters arising from the application of the Land Reform (Labour Tenants) Act and it shares jurisdiction with the magistrates' courts in respect of matters arising from the application of the Extension of Security of Tenure Act.

However, Magwanishe noted that the Restitution Act never envisaged a permanent court with permanent judges.

“Instead, the Land Claims Court was established as a dedicated court with a limited lifespan to deal with claims for restitution of land. However, the restitution process became protracted and is still not completed.

“A lack of permanency of judges presiding over matters before the court and the absence of a permanent seat has contributed to the slow processing of and backlogs in land restitution claims to the dissatisfaction of land claimants,” Magwanishe said.

He said the bill proposes to establish a specialist Land Court with its judgement appealable to the full bench of that court to deal with all land-related matters as regulated by legislation, in order to facilitate the speedy disposal of cases and contribute towards the development of appropriate jurisprudence in relation to land matters.

“Notably, the Land Court is established as a court of law and equity in respect of the Restitution Act and has the status of a High Court that has the authority, inherent powers and standing in relation to matters under its jurisdiction.

“The bill also proposes a cheaper and speedier alternative dispute resolution mechanism in the form of mediation,” the chairperson said.

Magwanishe thanked all stakeholders who made valuable input into the bill.

The bill will now be sent to the National Assembly for adoption and after which, it will be referred to the National Council of Provinces.

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