



[Learning Brief #12: Equitable Access to Land](#)

Land redistribution is a hot topic in South Africa. Some are saying that the constitution needs to change so as to speed up land reform and land redistribution while others claim that it is not the constitution that is the problem, but rather weak land reform implementation and elite capture of the land reform process. What does the constitution actually say about land redistribution? What legislation is there in support of land redistribution? What is the state doing to implement land redistribution? Click on the link to read the full [Learning Brief](#).

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[Managed Land Settlement Training](#)

Ronald Eglin gave a training presentation to students at the [Wits School of Governance](#) course on Human Settlement Policy and Management on 5 December 2017 on “An Introduction to [Managed Land Settlement](#): from depth to width”. The presentation outlined what a new site and service or plot and basic service approach to human settlement development could look like and what implications this would have for how land is acquired and developed, and how government can support households to build or arrange for the building of their own houses on this land.

The presentation highlighted the need for government officials and others to reconsider the role of government from changing from building houses for people (as is done at the moment) to supporting people to build their own houses. This mindset change builds on commitments from the National Development Plan which says that the state should gradually shift its role from a direct housing provider of last resort to a housing facilitator, as well as building on recent policy pronouncements from the Minister of Human Settlements - Lindiwe Sisulu - who stated in her budget vote speech earlier in 2017 that “we are now concentrating on serviced sites. ...

[P]eople would be able to move to their own stand and build their own houses.”

It was noted that the [latest draft Human Settlement policy](#) came out two years ago in November 2015, and that government is due to update this new human settlement policy which is anticipated to re-emphasise this policy shift from 'building RDP houses for all who need' to focusing on 'providing at least (semi) serviced sites and basic tenure'.



[Afesis-corplan calls for legislative amendments in support of public participation](#)

The [Report of the High Level Panel on the Assessment of Key Legislation \(HLPKL\) and the Acceleration of Fundamental Change](#), published on 22 November 2017, recommends that:

“Parliament should consider identifying and reviewing all legislation that includes a public participation component,... so that where provision is made for the public to be consulted, this consultation is meaningful and effective.” (page 403)

The HLPKL report, drawing on the [Afesis-corplan and the Democracy Development Programme’s \(DDP\) submission to the panel](#), notes that:

“[t]he original conceptual framework for citizen participation in local government is limiting and robs local government of the opportunity to tap into the capacity, the energy and resources that rests within citizens to drive change. There is a need to rethink the role of active citizens in local governance as co-drivers of change. The existing framework for citizen participation only enables the public to participate as invited guests in local government processes as opposed to partners and co-creators. This argument is derived from the emphasis on the term to ‘encourage and to consult’ in Section 152 (1) of the Constitution, in Sections 1 and 4 of the Municipal Systems Act, and in Section 19 of the Municipal Structures Act” (page 402)

Afes-corplan and [DDP](#) would like to engage with the HLPKL, parliament and others in further reviewing current legislation to identify how public participation legislation can be improved.

In particular (as recommended in the Afesis-corplan and DDP submission), opportunities for legislative amendments need to be identified, where municipalities, government departments, parliament and others can be encouraged and supported to pilot and test more innovative public participation methods.

Afes-corplan has also made [comments on the land related recommendations from the HLPKL](#)

[report](#).



[A new framework law for land reform](#)

The much anticipated [Report of the High level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change](#) was published on 22 November 2017.

The report draws attention to a number of serious problems with South Africa's land reform programme and makes recommendations for how legislation can be used to address these challenges. In particular Afesis-corplan notes the following three issues raised in the report and strongly supports the associated recommendations.

- Efforts to redistribute land from whites to blacks (as required by section 25(5) of the constitution) has been exceedingly slow, and the target group for land redistribution has shifted away from the poor to a larger group that includes the more well off;
- People living in communal land areas, informal settlements, farms and in other off-register areas still do not have adequately secure land tenure as required by section 25(6) of the constitution; and
- Apartheid spatial patterns still persist more than 20 years after the new democracy with the majority of previously disadvantaged people still living in overcrowded former rural homeland areas and in informal settlements and townships on the periphery of our urban areas.

The report makes the following recommendations in an attempt to address these problems.

1. Develop a new Land Reform Framework Act

"The Panel proposes new framework legislation that ...

[will provide] a coherent and consistent set of guiding principles; definitions of key terms such as 'equitable access'; clear institutional arrangements (particularly at district level); requirements for transparency, reporting and accountability; and other measures that promote good governance of the land reform process. It would also allow government to consider both urban and rural land reform as part of a broader land reform programme, designed to address the spatial restructuring objectives of the National Development Plan, and thus address spatial inequality." (page 223)

2. Develop a new Land Records Act

"The Panel motivates for the enactment of a Land Records Act ... [that will establish] a robust, inclusionary land rights administration system to ... recognise and administer land tenure rights

that are insecure. ... There are two key sides to this proposed law: firstly, the idea of having different categories of rights being made 'visible' and, secondly, the elevation of such rights to constitute property.” (page 481)

3. Establish a new co-ordination structure responsible for spatial development

“The Panel recommends the establishment of a co-ordinating structure responsible for spatial development, similar to the South African National AIDS Council (SANAC), which will be able to drive a coherent and co-ordinated spatial framework for South Africa ... led by the Deputy President.” (page 462)

Also see [Afesis-corplan's previous submissions to the HLPKL](#) in 2016 and Afesis-corplan's previous post on [The 4th R - Restructuring](#).



Comments on the Communal Land Tenure Bill

The emerging Land Governance Transformation Network (LGTN), of which Afesis-corplan is a member, has made a submission on the [Communal Land Tenure Bill \(CLTB\)](#) to the Department of Rural Development and Land Reform. To see a copy of the LGTN submission click [here](#).

“The submission questions the assumption that ‘communities’ are appropriate vehicles for owning land. ... The approach we advocate is to start with existing rights in households and families and building up a national legal-administrative infrastructure that will accommodate all off-register rights in the country. We believe that new tenure legislation should ... recognise [land] rights by reference to people in households and families as the basic rights-holding units rather than large collective entities that should only play a governance function. We propose bringing these rights into a recorded system of rights that is able to recognise individuals in families or households. The system should be set up to articulate with the Deeds Registry, which should be modified to allow for new institutional formats.

“Our argument is that the key focus of new law should be rebuilding a [land] administrative framework across the country. This would involve expanding the existing land administration infrastructure for all off-register rights to allow for recordal of rights in a range of contexts, including:

- *the communal land areas;*
- *farms;*

- *informal settlements, including those undergoing upgrading;*
- *occupied buildings;*
- *Communal Property Associations and Trusts.”*

For similar arguments made by Afesis-corplan for a new land records system see [Learning Brief 8: A New Land Records System](#)



[Eastern Cape Unemployment Crisis](#)

There are 216 000 more people unemployed in the Eastern Cape Now (in the July-September 2017 period) compared to the same period in 2016. These frightening statistics emerged from the StatsSA [Quarterly Labour Force Survey Quarter 3: 2017](#) that came out on 31 October 2017.

In July - September 2016, 28.2% of the working age population were unemployed in the Eastern Cape and this increased by a staggering 7.3% to an unemployment rate of 35.5% during the same July - September 2017 quarter. The national unemployment rate has remained stable rising only 0.6% from 27.1% to 27.7% over the same July - September 2016 to 2017 period with Kwa-Zulu Natal is the next worst performing province in terms of year on year unemployment increasing by just 1.1% between 2016 and 2017.

What is happening in the Eastern Cape to cause such a large increase in unemployment? What is the province and country doing to turn the Eastern Cape unemployment crises around?



[RECRUITING: Programme Officer](#)

Afesis-corplan is looking to fill the position of Programme Officer to work specifically in knowledge

management. To view the specifications for this position [click here](#)



RECRUITING: Finance and Administration Manager Position

AfeSis-corplan is looking to fill the position of Finance and Administration Manager. To view the specifications for this position [click here](#)



The Social Audit Network (SAN)

by Masixole Kente

[The Social Audit Network](#) (SAN) has recently launched a Social Audit Video and new logo.

The video showcases different social audits conducted in various locations by member organisations of the network around South Africa. AfeSis-corplan is one of the founders of the SAN. The video shares a glimpse into the Social Audits conducted by Equal Education (in Gauteng and Cape Town), AfeSis-corplan (in the Eastern Cape), the Social Justice Coalition and Ndifuna Ukwazi (in Cape Town) and Planact (in Gauteng). The video will be available to view soon on the new SAN website. The Social Audit methodology is a process used and accessible to communities to raise awareness and to engage government in a different manner about the challenges faced in poor communities such as issues around the access to quality basic services like housing, water and sanitation. Please follow this [link](#) for more information on Social Audit case studies in South Africa.



[The Scenery Park Phase 3 Housing Story](#)

by **Masixole Kente**

The construction of 947 houses for the Scenery Park Phase 3 beneficiaries in East London finally started in June 2017. These households have been waiting for their approved houses for more than 20 years. Afesis-corplan partnered with the community in 2014 and built the capacity of the community to better engage with the Eastern Cape Department of Human Settlements around their housing needs. Currently the beneficiaries are hands-on in the process of monitoring the construction of their houses. Afesis-corplan recently compiled [a short video clip](#) that captures the journey of the Scenery Park Phase 3 beneficiaries and gives an inside look at the community's struggles that began in 1994. Also see a previous video put together by Afesis-corplan called '[A purposeful pursuit](#)' which gives a bit more detail about this story.