

**Proposal Document for a formation of
A High Level Land Research Panel**

Prepared By: Dr. JL Dube Institute

1. Introduction

The Institute, was tasked by the Commission on Restitution of Land Rights (CRLR) to conduct research on outstanding land claims of the Commission. During our research activities of 2015/2016, the Institute's research unit took note of the profound discontent existing within claimant communities, relating to the 1913 cut-off date for the lodging of land claims as enshrined in Section 25(7) of the Constitution of South Africa. Since many of these families and communities were dispossessed of land rights prior to 1913, this left the claimants with the options of only claiming for the loss of various forms of tenancy and beneficial occupancy rights in their native land. These options fall far short of restoring their dignity that the option of claiming for ownership would provide. The level of dissatisfaction within the claimants prompted the Institute to spearhead multi-pronged approach towards resolving the land question as it is proving to be a "ticking time-bomb" that is threatening the stability of the future of this country. It is a well-documented fact that historically, whites acquired 87% of South Africa's productive land through racially based legislation and practices, which led to the dispossession of the vast majority of Native South Africans. It is therefore, imperative that any form of redress should be expedited in a spirit of reconciliation and also involve the capacitation of the previously disadvantaged Africans so that they can realize the full range of economic benefits that land ownership can provide.

2. Background

The Dr. John Langalibalele Dube Institute was formed with the specific aim of carrying forward the ideals, values and aspirations of the legendary statesman. It shall be recalled that Dr. Dube was the first leader to respond to the enactment of the Natives Land Act no. 27 of 1913. His activism at the time centered mainly around opposition to the draconian piece of legislation. Upon returning from his Studies in the USA in 1900 he formed links with like-minded leaders to establish the Natal Native Congress, whose main aim was to oppose the racially based laws and practices of land dispossession at that time. This led to eventual formation of the South African Native National Congress, which had, as its overriding national agenda, the repeal of the 1913 Act. The Institute therefore, regards itself as ideally placed as well as morally bound to take up the challenge of coordinating the formation and activities of the high level research panel to determine the high road towards resolving the land question to the benefit of the dispossessed masses of our people.

3. Terms of Reference

3.1 *Comprehensive research on timelines of land dispossession including major events that took place from 1600s.*

The formation of ministerial research panel responds to a request from the Minister of Land Affairs for comprehensive information regarding the history and timelines of land dispossession in South Africa dating back as far as the year 1600. This history is meant to detail the racial pieces of legislation, the proclamations used, wars that took place and any other events and the direct and indirect practices by both the authorities and settlers that led to the dispossession of Native Africans of their land. He further requested that this be presented in chronological timelines in order to complete the full scenario of dispossession in the whole of South Africa. In order to achieve this, the Institute has undertaken to assemble a panel of researchers that will consist mainly of academics, historians who will conduct comprehensive research into archival material housed in South Africa as well as in international resource centres such as Oxford and Cambridge. It is envisaged that the final document produced for the minister will show that the settlers and the regimes of the past employed a systematic approach to dispossess the Native inhabitants of South Africa of their rights in land. It will also show that although the process was gradual during the centuries leading up to the beginning of the 19th century, it certainly speeded up during the latter century so that most of South Africa's land was annexed by settlers at the beginning of the 20th century.

3.2 ***Review of the current land redistribution system “willing buyer, willing seller” system, and come up with recommendations for a new system.***

The formation of this section will be informed by the feedback from the research, roundtable debates, surveys conducted by the Institute. The views emanating from the above forums concurred broadly that the country’s constitution was wrongly premised when it adopted 1913 as the cut-off date for land claims, against the historical context of land dispossession which occurred several centuries earlier. There were divergent views on the restoration of land rights to dispossessed communities through the amendment of Section 25(7) of the constitution. Views ranged from advocating for expropriation of claimed land without compensation, to those that considered the constitution as sacrosanct and instead proposed that government purchased and redistributed alternative land to claimants, especially since the willing-buyer willing-seller model of restitution is proving to have failed.

The above divergence in views prompted the Institute to conceptualise and coordinate the formation of a high level research panel to determine the high road towards resolving the land question to the benefit of dispossessed people. The strategy to be explored will involve the determination of a format for land restitution and redistribution that will harness political goodwill and reconciliation within society, considering that the willing-buyer, willing-seller model has not worked, and the fiscus will be severely challenged to settle the outstanding claims successfully at current property values. The recommendations that will come forward from the high level research panel engagements will be submitted to the relevant high-level panel(s) in Parliament as well as Parliament itself.

3.3 **Proactive Research for all outstanding land claims that were submitted on or before December 1998.**

During its land claim research activities of 2015/2016, the research unit of the Dr. J.L. Dube Institute came to the realisation that land claim research could be speeded up considerably and at a fraction of the current cost, if all claims were aggregated and researched as district claims as more often than not, districts were affected by similar sets of circumstances that led to dispossession. Also, resources could be shared between individual claims within the districts, thus resulting in significant cost savings. The Dr. John Langalibalele Dube Institute then submitted a proposal to the Chief Land Claims Commissioner, which proposed that land claims research be undertaken in district blocks at a time, to allow for their speedy and cost-effective completion, given the Institute's considerable research capacity and access to human and academic resources. The proposal was later followed with a presentation to the Minister of Land Affairs, in the presence of the Deputy Chief Land Claims Commissioner and other senior personnel of the Commission. Our research approach and methodology involves the following unique aspects:

3.3.1 Methodology

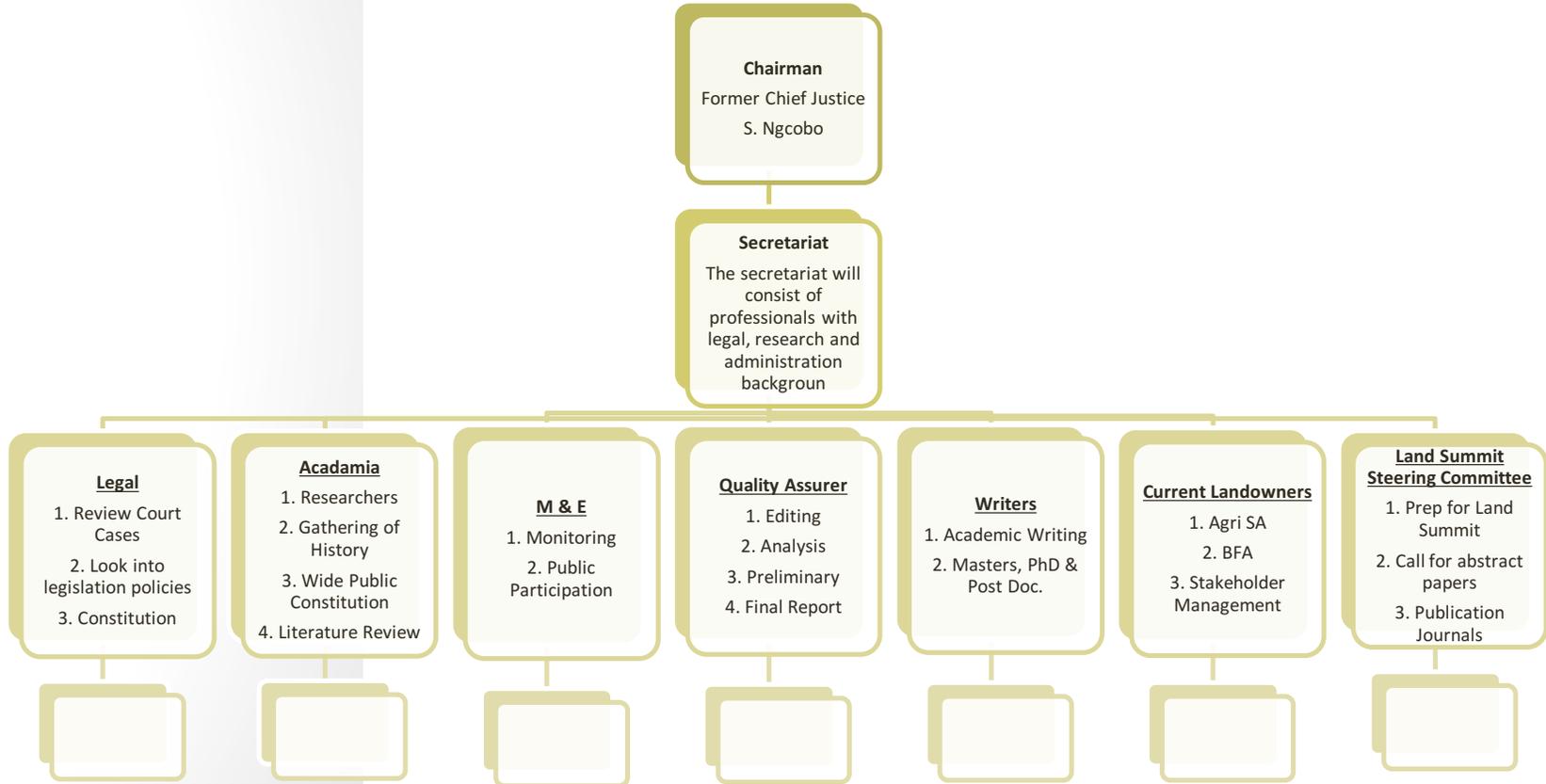
Phase 1: Audit of allotted claims

An audit will be conducted on all lodged claims in order to group them into various categories, such as: different districts; family vs community claims; researched vs non-researched claims; claims with traceable claimants vs those that cannot be traced; and claims that are subject to court adjudication; number of settled claims, amount paid, extent of land already returned to original owners etc.

Phase 2 –The Actual Research

- The comprehensive research will take place when the audit is complete and the analysed and verified list of lodged claims is confirmed. This will avoid researching claims that are already researched and others with untraceable claimants.
- The Institute has set up a research team consisting of: academics and historians, who have at various times researched, and written extensively on land issues in South Africa and the continent.
- The Institute is certain that it can successfully complete any number of land claims research, with the current quality and extent of expertise at our disposal. We also undertake to subject all reports to stringent quality control processes to ensure that they are of high standard and that they will be submitted timeously.

Proposed Structure



The Proposed Structure

Chairman

The chairman of the panel will be expected to provide leadership, an must be effective strategist and a good networkers. He/she much ensure that the entire panel and its committees functions properly and must build and lead his/her team. This will include reviewing the committees performance, and also to be a supervisor to the secretariat and senior team.

Secretariat

The main functions of the Secretariat shall be performing of administrative and executive services for High Level Research Panel. It will also support the chairman and provide technical advice to the panel.

Committees Structures

Legal Committee

It will be constituted by attorneys, advocates and para-legal personnel who have expertise and experience in legal and dealing with land relate issues.

The main duties of the legal committee will involve the following:

1. Identifying and reviewing the racially based legislation that led to the dispossession of the South African Natives of their land rights.
2. It will also analyse the racially based proclamations, actions of state functionaries as well as white settlers in the systematic dispossession of the Natives.
3. The committee will review the current South Africa's constitution, other pieces of legislation, and land policies (political parties) that are aimed at redressing the imbalances of the past.
4. The legal will also form part of the proactive research team on land claim cases that have been referred to the courts for arbitration, i.e. establish why they were referred to court and propose measures to expedite their resolution.
5. Taking part in the audits of Commission on Restitution of Land Rights' (CRLR's) outstanding claims with special emphasis on the legalities.
6. Form part of the process of identifying the timelines and events that took place during the dispossession process that dates back to the 1600's.

The legal committee will come up with a comprehensive legal opinion and recommendations for a strategy that will involve a format for land restitution and redistribution that will harness political goodwill and reconciliation within society, considering that the willing-seller, willing-buyer model has not worked, and the fiscus will be severely challenged to settle the outstanding claims successfully at current property values.

The Academic and Research Committee

This committee will be the heartbeat of the Commission, without an in-depth and fact-based research, effective data analysis, conclusions and recommendations cannot be realised. A well-researched history of dispossession is of critical importance, it is therefore, important that this committee consists of historians, anthropologists, academics, independent researchers, organic intellectuals and indigenous knowledge experts.

Their main duties of the committee:

1. Conducting comprehensive research, using both local and international sources as most of archival information is currently housed in Europe and the US
2. Research design, methodology, literature review, and data analysis.
3. Collection of oral and visual/physical evidence.
4. The committee will also include GIS specialists, will deal with mapping, and analysing aerial photographs for homestead identification and other anthropological structures as well as analyse cadastral and historical maps

The research outcomes will consist of:

- A rich and authentic history of South Africa
- Accurate timelines and events that led to dispossession
- Irrefutable oral, written and visual evidence which will accurately illustrate the dates and circumstances of dispossession.

The Monitoring and Evaluations Committee

The M&E Committee will be chaired by _____

The aim of M&E is to assist in improving performance and achieving desirable results which can be assessed and measured (time frame, Project Management: Initiation, Planning, Executing, Controlling, Execution and Closing). Emphasis is not only placed in the present but also the past which then assists in making a more informed decision which will result in improved performance. M&E will assist in creating links between past, present and future interventions and results

The main duties of this committee is to:

1. Monitor the activities of the Commission and all its committees.
2. Evaluate all the Commission's processes, including reports, recommendations and the Commission's actual submission to Parliament.
3. Play a crucial role in facilitating public participation on the land question to ensure that all stakeholders participate in the public engagements.
4. To conduct a thorough consultative process on the land issue.

The main outputs of this committee will be transparency, inclusive representation of all South African citizens in land discussions and debates so as to avoid the Commission's findings and recommendations being challenged in court.

Stakeholders and Civil Society Committee

The committee will be chaired by _____

This committee will consist of representatives of various agricultural unions, farmers associations, the Khoi and the San and various other sectors of civil society. The main duties of this committee will be to conduct community dialogues, round table discussions, advocacy and campaigns, community surveys to solicit the views of current landowners, and all South African citizens. It is also hoped that this process will also help establish an authentic account of who the real original people of South Africa are. This committee is also responsible for creating a space that will enable South Africans to find each other in a spirit of peace and reconciliation for shared prosperity.

Writers and Quality Assurance Committee

The Writers and Quality Assurance Committee will be chaired..... It will consist of current and retired editors and professional writers, who will verify and validate the outputs of the Legal and Academic Committees.

Their main tasks will be:

1. To evaluate and edit all findings, and draft reports that are produced by all committees prior to their finalisation.
2. The quality assurance of all journals, publications Land Summit recommendations and reports
3. The quality assurance of the final Commission's report.

Commissioning of writers

When the information from key stakeholders has been gathered, a team of writers of identified topics will be commissioned to write sections. Some may be recordings (audio and video) of key informants. The writers will include academics, masters and PhD graduates and independent writers who are affiliated to the institution. A panel of historians, legal and academics will verify the information for approval.

The process of developing an encyclopedia/book

The writers and quality assurers committee will also be responsible of producing the A-Z book, which will be an easy-to-use reference tool which will be available even online and in libraries. An A-Z volume book may be one volume and have a very specific topic as its subject. Because books like these are so easy to use and will also be accessible, many people would use them as their first choice as a reference tool. It will not give you as much information as a textbook, but it gives a good basic overview of each subject, so that a reader will have a place to start learning and referring. The compilation will be codified into print and electronic formats for both audio and video to make it widely accessible. The documentation and communication in languages understood by other communities is another important consideration when it ceases to be locally specific. The classification system for the documentation will ensure protection of an important tool for future research. This process of collecting information has already started; a team of masters and PhD students are currently working on it.

Editorial Processes

In order to produce and maintain high quality in all products, we propose an editorial process. An overview of this process is provided below. The process covers all content that will be developed textually as well as visuals.

Visual – We will establish, maintain, a unique catalogue of illustrations and animations. All visual content, including images, maps, aerial photographs GIS, animations, and supporting text, are conceptualized, created, and reviewed by professionals with relevant qualifications and experience. The general flow of the editorial process is provided below. The process is divided into 5 steps.

Step 1 – Content Development

In Step 1, a panel of writers will develop content.

Step 2 – Content Review

In Step 2, members of the project team will constitute a quality assurance committee and/or academics and historians from various provinces and officials from various government departments may review content. The Project Leader will approve all content at this stage.

Step 3 – Quality Review of Editorial Content

In Step 3, the project team will review the content following review for grammar, style, and consistency. The team will review all content, both written and visual. Quality assurance checks of content, references and intellectual property will be regularly performed. Acquired content, which has demonstrated adherence to the criteria of the review board and editorial standards, may enter the editorial process at this stage.

Step 4 – Content Production

In Step 4, the content is indexed, stored in our in-house proprietary content management system, coded, and tagged for presentation. Some of the content is translated and stored in our content management system at this time. A technical and content quality assurance check is also performed during this step; this will include intellectual property and acknowledging all authors of the material and those who were interviewed.

Step 5 – Content Publication

In Step 5, content will be sent to an appropriate printer for layout design, printing and distribution. Some content may be located on the DRDLR website so that Feedback to the editorial process.

Land Summit/Conference Steering Committee

The Steering Committee will be the guiding force which will oversee the land summit event. It's duties will be to come up with the summit theme, call for abstract, publications and coordination. This committee will work closely with the writers, and quality assurers to make sure that there is a synergy in all three committees.

The outcome will consist of the comprehensive and inclusive summit report that will cover all issues relating to land matters, that come from the participants of the land summit/conference. The report will come with recommendations that will map the way forward to a new land redistribution system which will be acceptable to all south Africans, and that will allow government to redistribute land without compensation.

The Dr. John Langalibalele Dube Institute

The Dr JL Dube Institute's role is:

1. To facilitate the formation of the Commission
2. Ensure that the Commission's mandate and Terms of Reference are clearly defined and properly communicated to members of the Commission.
3. Exercise an oversight role over the commission to ensure that its mandate and Terms of Reference are clearly drafted, communicated and adhered to.
4. To appoint members of the Commission and its committees.
5. To set up systems and infrastructure as well as ensure the smooth and professional running of the Commission.
6. To ensure that all members of the panel and its support staff adhere to the TORs and the timelines set for the High Level Research Panel Team.
7. Prepare and manage the High Level Research Panel budget.
8. Assume responsibility together with the Chairman of the High Level Panel and the Secretariat for the submission of the final report of the Commission to Parliament.
9. Exercise all rights of ownership, patent and trademark in respect to all publications, journals and other materials that will be produced through the process of the high level land research panel.
10. Ensure that the Institute's patented materials are accessible to academia, legal and public interest groups as a resource that can be used for research and educational purposes.