

1. There is a wide spread confusion regarding the status of rights in land and who may make decision on that land, e.g. if you go to the bank to look for a loan and you say you are from a communal land it is difficult to get the loan because the land belongs to the community and you do not have title.

Clara seeks to rectify this by trying to transfer the rights in land or the land to people because if you register these rights you are actually providing tenure security, in the form of individual title or communal title.

Land is transferred to the community in terms of Section 5 and 6, the outer boundaries is going to be registered in the name of the entire community. The community becomes a legal person. Clara gives the community members a deed of communal right this is registered against the land in the deeds office. This is a legal document that shows that you have exclusive rights to use the land this is different from title deed.

A member of the community can approach the community and say I want full title to my land and if the community agrees then that person goes and surveys that piece of land and have it registered in his own name and then he will have full title. The community may make certain conditions for the disposal of that land e.g. that if that person decides to sell then the community must have a right of first refusal.

The land rights board will be established at the provincial level to oversee the communities.

2. Section 18(a) makes the Chief of the communities to be a servant of the communities when they allocate land they must allocate according to the rules of the communities.

The reason why the traditional authority rejected Clara was because they were of the opinion that the communal land belongs to them forgetting that they are servants of the communities.

Clara provides three models the collective tenure form the group owns the land collective, individual free holds and a combination between A and B.

Clara also aims to unscramble the egg in many instances for example if you have bought a land and you could not have it registered in your name and it has been allocated to a traditional community through the land rights inquiry Clara will try and give effect to your initial intention that is the land will be transferred to you.

The public is not aware about the institutions available to address their problems. Delegation and decentralization of power has to be accompanied by empowerment. We must deliver and meet the targets. In terms of service delivery municipalities must deliver services this is mandated in terms of Section 6 (b).

We need to draw an institutional plan as to what the function of the municipalities in terms of rendering services and DLA function.

COMMUNITY AND BENEFICIARY EMPOWERMENT

3. The state has a constitutional obligation within the context that it acknowledges past injustices created by the past racially discriminatory laws.

The acknowledgement that people staying in communal areas their tenure is insecure hence we have this legislation. This has led to limited access to credit and opportunities to development. Section 5 and 6 makes possible transfer of land and rights in land possible. This is an enabling clause or provision. Section 18 (3) (a) (b) and (c) provides a variety of tenure options which people can choose from deed in communal land right, freehold title and a mixture of (a) and (b).

4. The adequacy...

The implementation plan, as part of the National Implementation Framework (NIF) has just been completed and is subject for comment and approval by the Minister. A next step is the drafting of the Provincial specific implementation strategies, which includes training and communication. The regulations for the Act is also been finalized for discussion in Parliament, where after the President will promulgate the Act effectively. To note is that actual implementation happens at district and local level.

5. The likelihood that legislation ...

This will not be achieved (success depends on this) if there is no adequate budget, capacity, institutional arrangements, devolution of services and resources.

It is important to develop own best practices to become a learning organisation. This will include the development of M & E mechanisms. The relationship between Government and Civil Society Organisations need to be nurtured so as to improve effective implementation of the Act – towards tenure security.

This Act provides a rural bias as opposed to other legislation that is more focused towards urban development

Point 6 dealt with under above discussion