

## **HOW TO STAY HOME WITHOUT A HOME: HOME, LAND AND TENURE ISSUES UNDER LOCKDOWN**

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### **Concept Note**

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The COVID-19 pandemic is here to stay, and we need to navigate life under its influence. This concept note serves to outline a proposed path to proactive and meaningful engagement with the State on navigating issues of home, land and tenure in our 'new normal'.

#### **1. About CALS**

The Centre for Applied Legal Studies ("**CALS**") is a civil society organisation based at the School of Law at the University of the Witwatersrand. CALS is also a law clinic registered with the Legal Practice Council. As such, CALS connects the worlds of both academia and social justice. CALS' vision is a socially, economically and politically just society where repositories of power, including the State and the private sector, uphold human rights.

#### **2. About the Nelson Mandela Foundation**

The Nelson Mandela Foundation was established in 1999 when its Founder, Mr Nelson Mandela, stepped down as the President of South Africa. Our mission is to contribute to the making of a just society by mobilising the legacy of Nelson Mandela, providing public access to information on his life and times, and convening dialogue on critical social issues.

#### **3. The trigger: COVID-19 Regulations on evictions**

With the advent of the national lockdown and after advocacy by civil society, the State imposed a blanket moratorium on evictions. This was both appropriate and necessary in the context of a legal framework which compels citizens to 'stay at home' and generally prohibits travel and movement, and aids in curbing the spread of COVID-19 by preventing homelessness during the period of lockdown. On the announcement of Alert Level 4 however, the government's amended Regulations in terms of the Disaster Management Act of 2002 narrowed the scope of that moratorium.

In response, CALS sought to write to the State recommending an amendment and reversion to the prior blanket moratorium on all evictions. CALS issued a call for endorsements to that submission, which call was spread widely throughout civil society, law clinics and social movements working in the area of land and tenure. In responding

to that call, many partners raised relevant concerns necessitating a broader discussion and further engagement with the State.

#### **4. How to stay at home without a home: Issues around home, land and tenure under lockdown**

The issues raised in this broader discussion can be divided into the following general 'areas of concern':

- Formal, lawful evictions – often driven by the State;
- Informal, unlawful evictions – commonly undertaken by private landlords;
- Demolition of housing structures (whether by the State, third parties acting for the State or private entities);
- Rehoming of unhomed persons (including those persons who were moved into temporary camps upon the advent of the lockdown) and encompassing the provision of Temporary Emergency Accommodation by the State; and
- Farm workers' access to land and tenure

Each of the above areas generates particular concerns under a legal framework of 'lockdown', in which citizens are compelled (at Level 5) or at least persuaded (presumably at Levels 1 and 2) to 'stay at home'.

Moving ahead into our 'new normal' we believe that a forward-looking approach which takes into account the dangers of spreading COVID-19, the purpose of the 'stay at home' message and the socio-economic realities of South African society is required. That approach calls for widespread discussions drawing on civil society's expertise, and sustained and meaningful engagement with the State. With an anticipated move to Level 3 of the lockdown being imminent, the urgency of the need for this process cannot be understated.

#### **5. The proposed way forward**

Given the above, we consider it necessary to convene a forum for engagement between the State and civil society.

We anticipate that this engagement will occur in two parts, namely –

- Part 1: A wide-ranging strategic discussion amongst civil society, law clinics, social movements and affected communities to identify the primary issues generated by the 'stay at home' framework for each of the above-detailed areas of concern.
- Part 2: A sustained engagement with the State on how these issues should be addressed in the legal and regulatory framework going forward.

We accordingly invite you/your organisation to Part 1 of this project, through which we aim to identify and articulate the core issues to be raised with the State.

## **6. Discussion document**

We envision the production of a discussion document for each of the above-detailed areas of concern, which would draw on organisational expertise, academic study and lived realities, and constitute its own sub-group of the broader project.

## **7. What we ask of you/your organisation**

We ask that your organisation give thought to these and any additional issues which should be addressed through this project, and to send us suggestions. This will assist in narrowing the focus, utilising the limited time wisely and allowing participants to prepare for the engagements.

Furthermore, at this preliminary stage we would appreciate if your organisation could identify particular persons who are best placed to share their expertise on each of the sub-groups. Finally, please let us know if you/your organisation is interested in heading up the drafting of a discussion document for one of the sub-groups. We are well-aware that no one organisation can cover all these issues, and so seek to draw on our collective knowledge and experiences.

## **8. Our timelines**

Time is of the essence in ensuring that the 'stay at home' message is both communicated and regulated appropriately and successfully. We therefore appreciate you giving this call your urgent attention.

The Part 1 strategic discussion is scheduled to be held on the Zoom meeting platform on Thursday 21 May 2020. The Part 2 engagement with the State will be held soon thereafter.

## **9. Contact information**

Kindly RSVP to Ariella Scher at [Ariella.Scher@wits.ac.za](mailto:Ariella.Scher@wits.ac.za) by 13h00 on Wednesday 20 May 2020, and please do not hesitate to contact us for further information.

**ENDS.**