

A Call for More Discussion on a Property Clause in the Bill of Rights

We, the rural and landless communities participating in the Back to the Land Campaign, have borne the brunt of discriminatory land policies. Together with the service organisations we work with and other supporters, we bring

We say that:

- We strongly object to the inclusion of a property clause in the transitional bill of rights. Property rights are too important to be rushed through the inaccessible processes at the World Trade Centre. Instead, they should be dealt with by all South Africans after an election. It is not clear how long transitional property rights will last but they will prevent any restoration or redistribution of land from taking place during that time. We believe that land restoration needs to be tackled urgently, and we demand that it is completed within the next five years.
- Because of the discriminating laws and policies in South Africa, our country is now owned by white people. The Land and Group Areas Acts prohibited us, as blacks, from owning land up until 1991, and our property rights were flagrantly disregarded through the policy of forced removals. The proposed clause sets out that black rights to land that was stolen from them are "dependent on feasibility".
A property clause in this context will protect white power and privilege.

We note with deep concern that:

- If property rights for existing owners are guaranteed in the constitution, without sufficient provision for land restoration and redistribution, then a land claims court or a land reform policy will be vulnerable to challenge or review. It will enable whites to challenge any laws and policies aimed at restitution on the basis that they conflict with their constitutional rights.
- As effected communities, we have not been thoroughly consulted, and especially not by parties such as the National Party and the Democratic Party.
- Extra-parliamentary organisations and certain parliamentary organisations like the Progressive Federal Party (now the Democratic Party) have a proud history of resisting forced removals. Attempts to "de-constitutionalise" the restoration issue fly in the face of this history and could prevent the restoration of our land.

We hereby demand that:

- the proposed property clause, be either scrapped, or be drastically changed in order to ensure that those who have been unjustly deprived of their land have a right to restitution;
- all affected parties, particularly the landless and rural people, be given the time and opportunity to make submissions on the matter;
- thereafter, the issue be openly and thoroughly debated in the multi-party negotiating forum; and
- this debate should be broadcast in full on radio and television, for all South Africans to hear.

To each delegate at the forum, we say:

There can be no freedom without land, and there can be no peace until the emotional issue of land is settled. The multi-party forum needs to commit itself to restoration and land reform before a new constitution is drawn up.

We are concerned that the property clause, which is due to be finalised at the World Trade Centre,

underplays the rights of people who were forcibly removed from their land and who have been denied access to land.

We fully support the protection of security of tenure. However, the clause which the negotiators are proposing legitimises rights that were obtained through statutory discrimination of the past. It prejudices those who have already lost their security of tenure and works in favour of those who now own land.

The Bill of Rights is an important document with far reaching implications for all South Africans. We expect it to guarantee the return of our land, or the granting of access to the land. If it does not do that, it will have no legitimacy in the eyes of landless and rural communities. We will then have no option but to return to our land by force, whatever the consequences.

Submitted on behalf of the Back to the Land Campaign. A campaign of over 70 rural and landless communities, supported by the National Land Committee and affiliates.

The following communities and National Land Committee affiliates are involved in the campaign:

Communities: Amahlubi, Alcockspruit, Camden, Compensation, Crammond, Criemen, Baynesfield, Weenen, Charlestown, Ilinge, Zweledinga, Cintsa, Morgan's Bay, Potsdam, Mooiplaas, Mpongo/Maclean town, Needs Camp, Kwasidenge, Kwelera, Newlands/Nxarhuni, Thornhill/Merino Walk, Tyolomqa, Mgwali, Mfengu/Tsitsikamma, Somerset East, Hankey, Magogoane, Doornkop, Bakubung, Baphiring, Barolong, Baphalane, Mogopa, Welverdiend, Mampuru, Elandskraal, Mashabela, Masha, Dinkwanyane, Botshabelo, Driefontein, Daggakraal, KwaNgema, Dirkiesdorplabour tenants, Wakkerstroom labour tenants, Drakensberg Farmers Union, Tsetse, Moletedi, Mashilane, Mogare and Moletele, Mbangweni, Zikuba, Cwebhe, Mendwane, Mt. Avliff, Ntothoviyane, Mfenta/Masakhane, Mzontauda Community Project, Luphoko, Kwa-Mtwana, Buisplaas, Riemvasmaak, Elandskloof, Bojelagoma, Majeng, Dithakwaneng, Gathlose, Khosis, Schmidtsdrif, Kono, Loepeng, MetsiMatalale, Skyfontein, Bethany, Blesbokfontein, Herschel.

National Land Committee Affiliates: Association for Rural Advancement, Border Rural Committee, East Cape Land Committee, Farmworkers Research and Resource Project, Orange Free State Rural Committee, Southern Cape Land Committee, Surplus People Project, Transkei Land Service Organisation and the Transvaal Rural Action Committee.

Supported by the following individuals ...

Rev. Frank Chikane (South African Council of Churches), Bishop Wilfred Napier, Dr Beyers Naude, Ina Perlman (Operation Hunger), Peter Storey (Bishop of the Methodist Church of Southern Africa), Blade Nzimande (Deputy-chairperson African National Congress Regional Executive Committee), Njabulo Ndebele (Rector University of the North), Geoff Budlender (Director Legal Resource Centre), Bill Jardine (National Olympic Sports Congress), Father Smangaliso Mkhathshwa, David Cooper (Land and Agricultural Policy Centre), John Aitchison (Director Centre for Adult Education University of Natal - Pietermaritzburg), Gordon Crystal (Rural Advice Centre - Durban), Charles Neupen (Director of Independent Mediation Services of South Africa), Rob Dyer (Rural Advice Centre - Natal manager), Stan Sangweni (African National Congress spokesperson on environmental affairs and Director School of Rural Community Development), Peter Kerchhoff (co-ordinator Pietermaritzburg Agency for Christian Social Awareness), Tessa Cousins (Chair Natal Midlands Rural Development Network), Marie Kleinenberg, Fidela Fouche, Marie Dyer, Joanne Fedler, Pat Merret (all Black Sash Natal Midlands), Phumelani Bukashe (Black Sash Eastern Cape), Roban Persad (Cosatu Natal), Cobs Pillay (Numsa Education), Mpume Chamane (Cosatu), Gareth Coleman (Cosatu), AS Chetty (chairperson ANC PMB Branch), Alf Karrim (Natal Forum secretary), Jeffrey Vilane (Natal Forum chairperson), Mbongeni Ngema (MD Committed Artists, Mike Mabuyakhulu (Cosatu Northern Natal), Sam Zwane (Cosatu Northern Natal), John Mabuyakhulu (acting regional secretary Cosatu Northern Natal), Phiwe Zibane (Cosatu Northern Natal), Magrapes Hlatshwayo (Numsa Southern Natal regional secretary), Rauri Alcock (Church Agricultural project), Mphephethi Masondo (Church Agricultural Project), Solomon Zuma (Sarmcol Workers Cooperative), Randy Erentzen (Director Centre for Development Studies) Garth Strachan (Director Education Resource Information Project).

... and organisations:

Lawyers for Human Rights, Legal Resources Centre Durban, Community Law Centre, Centre for Rural Legal Studies, Black Sash, Kagiso Trust, Operation Masikhane for the Homeless, Farmers Support Group, Planact, Development Action Group, Centre for Adult Education University of Natal Pietermaritzburg, Pietermaritzburg Agency for Christian Social Awareness.