

Land law

ANC WORKING DOCUMENT

'A BILL OF RIGHTS FOR A NEW SOUTH AFRICA'

ARTICLE 12. ENVIRONMENTAL RIGHTS

1. THE ENVIRONMENT, INCLUDING THE LAND, THE WATERS AND THE SKY, ARE THE COMMON HERITAGE OF THE PEOPLE OF SOUTH AFRICA AND OF ALL HUMANITY.
2. ALL MEN AND WOMEN SHALL HAVE THE RIGHT TO A HEALTHY AND ECOLOGICALLY BALANCED ENVIRONMENT AND THE DUTY TO DEFEND IT.
3. IN ORDER TO SECURE THIS RIGHT, THE STATE, ACTING THROUGH APPROPRIATE AGENCIES AND ORGANS SHALL CONSERVE, PROTECT AND IMPROVE THE ENVIRONMENT, AND IN PARTICULAR:
 - (I) PREVENT AND CONTROL POLLUTION OF THE AIR AND WATERS AND DEGRADATION AND EROSION OF THE SOIL;
 - noise radiation*
(II) HAVE REGARD IN LOCAL REGIONAL AND NATIONAL PLANNING TO THE MAINTENANCE OR CREATION OF BALANCED ECOLOGICAL AND BIOLOGICAL AREAS AND TO THE PREVENTION OR MINIMISING OF HARMFUL EFFECTS ON THE ENVIRONMENT;
 - (III) PROMOTE THE RATIONAL USE OF NATURAL RESOURCES, SAFEGUARDING THEIR CAPACITY FOR RENEWAL AND ECOLOGICAL STABILITY;
 - (IV) ENSURE THAT LONG-TERM DAMAGE IS NOT DONE TO THE ENVIRONMENT BY INDUSTRIAL OR OTHER FORMS OF WASTE;
 - (V) MAINTAIN, CREATE AND DEVELOP NATURAL RESERVES, PARKS AND RECREATIONAL AREAS AND CLASSIFY AND PROTECT OTHER SITES AND LANDSCAPES SO AS TO ENSURE THE PRESERVATION AND PROTECTION OF AREAS OF OUTSTANDING CULTURAL, HISTORIC AND NATURAL INTEREST.
4. LEGISLATION SHALL PROVIDE FOR CO-OPERATION BETWEEN THE STATE, NON-GOVERNMENTAL ORGANIZATIONS, LOCAL COMMUNITIES AND INDIVIDUALS IN SEEKING TO IMPROVE THE ENVIRONMENT AND ENCOURAGE ECOLOGICALLY SENSIBLE HABITS IN DAILY LIFE.
5. THE LAW SHALL PROVIDE FOR APPROPRIATE PENALTIES AND REPARATION IN THE CASE OF ANY DIRECT AND SERIOUS DAMAGE CAUSED TO THE ENVIRONMENT, AND PERMIT THE INTERDICTION BY ANY INTERESTED PERSON OR BY ANY AGENCY ESTABLISHED FOR THE PURPOSE OF PROTECTING THE ENVIRONMENT, OF ANY PUBLIC OR PRIVATE ACTIVITY OR UNDERTAKING WHICH MANIFESTLY AND UNREASONABLY CAUSES OR THREATENS TO CAUSE IRREPARABLE DAMAGE TO THE ENVIRONMENT'.

Exposure to dangerous substances

The key words in any Constitution
are creatively ambiguous.

Ombudsman - with power to
enable people to enforce their rts.

Environmental rts - important in
themselves - also, new relationship ~~with~~
between people and govt. - a new concept
of citizenship

Rhode Isl
Penn.
Illinois

"Business info" is confidential
[cf Companies Act]
environmental info is not.

Ownership in RDC is absolute
abstract and ^{unindividualized} infinite (?) - unlimited
Land use rts are seen as inferior
to ownership rts.

acid rain - affordable
electricity. Tribunal

Interpret.

Negative of.

Reasonableness - admin. action
reg. sub. leg.

Re to info.

Bodies - supervise

Mechanisms - require leg. attent.

1) Consists. - mistrust / idealism.

2) ~~Equity~~ Equity / iniquity,
Agenda.

3) Politics are possible
Science - art solvable
Culture are performable
Law - art of enforceable
all art of affordable.

4) Times of scarcity - humans.

3 generations.

B of Res / Party. 200ty.

Hum it.

Directive of State policy

Organic laws,
Charters - just it.