

ANC PRELIMINARY SUBMISSION : THEME COMMITTEE 4:
OUR BROAD VISION OF A BILL OF RIGHTS FOR SOUTH AFRICA

We in the ANC understand the concept of fundamental rights as embodied in Principle 11, to refer to the human rights of our people, viz; civil/ political/ social/ developmental/ and environmental rights. We thus believe that a Bill of Rights should entrench the human rights of our people.

Accordingly, our broad vision of the Bill of Rights is as follows:

The Bill of Rights will guarantee that South Africa is a multi-party democracy in which people enjoy freedom of association, speech and assembly and the right to change their government. Furthermore, the public shall have a right to know what is being done in their name - there shall be a right to information and a firm guarantee regarding the free circulation of ideas and opinions.

The Bill of Rights shall be binding upon the State and organs of government at all levels and where appropriate, on social institutions and persons.

The Bill of Rights shall secure the rights of all persons in all spheres of life, including housing, education, employment and access to facilities and such protection shall be ensured without discrimination on the ground of race or gender.

The Bill of Rights must guarantee language and cultural rights and religion, and respect the diversity thereof.

It must acknowledge the importance of religion in our country. It must respect the diversity of faiths and give guarantees of freedom of religion.

Workers rights to set up independent trade unions, to engage in collective bargaining and their right to strike must be protected in the Bill of Rights which should be supplemented by a Worker's Charter. This Charter should set out all those rights that workers throughout the world have gained themselves. The State will be a signatory to the International Labour Organisation (ILO) conventions. The Bill of Rights will also prohibit slave labour, the exploitation of children and discrimination in the workplace.

There shall be equal rights for women and men in all spheres, and the creation of special agencies to ensure that equal opportunity operates in practice.

The Bill of Rights should support the provision of homes, employment and utilities such as light and water, so as to repair the damage done by Apartheid and the Migrant Labour System, and in order to give real meaning to the right to a home and family life.

The property rights of the majority have been systematically ignored and violated by Apartheid. A new system of just and secure property rights must be created, one which is regarded as legitimate by the whole population.

The taking of property shall only be permissible according to law and in the public interest, which shall include the achievement of the objectives of the Constitution.

Any such taking shall be subject to just compensation which shall be determined by establishing an equitable balance between the public interest and the interest of those affected and will not be based solely on the market value of such property.

The Constitution will make it clear that seeking to achieve substantive equal rights and opportunities for those discriminated against in the past should not be regarded as a violation of the principles of equality, non-racialism and non-sexism, but rather as their fulfilment. Unless special interventions are made, the patterns of structured advantage and disadvantage created by Apartheid and patriarchy replicate themselves from generation to generation.

The Bill of Rights shall establish the principles and procedures whereby land rights will be restored to those deprived of them by Apartheid statutes. A Land Claims Court Tribunal, functioning in an equitable manner according to principles of justice laid out in legislation, will, wherever it is feasible to do so, restore such rights.

The Bill of Rights will affirm the right of all persons to have access to basic educational, health and welfare services. It will establish principles and mechanisms to ensure that there is an enforceable and expanding minimum floor of entitlements for all, in the areas of education, health and welfare. It will commit the courts to take into account the need to reduce malnutrition, unemployment and homelessness when making any decisions.

The State shall become a party to the large number of human rights conventions and in particular those dealing with racism, gender and discrimination and the rights of children, which Apartheid has, until now, rejected. In this way we will assert our rightful place in the international community.