

FURTHER ANC PROPOSALS ON PROPERTY CLAUSE (28 FEB 1996)

- (1) Everyone has the right to have equitable access to land. The state must take reasonable and progressive legislative and other measures to secure this access.
- (2) The institution of property shall be respected. its nature, use, content and limits shall be determined by law.
- (3) No one may be deprived of property except in accordance with a law of general application.
- (4) Property may be expropriated only in terms of a law of general application -
 - (a) for public purposes or in the public interest;
 - (b) subject to the payment of compensation within a time period and in a manner as agreed or decided by a court.
- (5) When a court decides the amount of compensation, timing or manner by which payment must be made, the court must determine an equitable balance between the public interest, which includes land reform, and the interests of those affected, having regard to all relevant factors, including -
 - (a) the current use of the property;
 - (b) the nature of the property;
 - (c) the history of its acquisition, occupancy and use;
 - (d) its market value;
 - (e) the ability of the state to pay;
 - (f) the extent of state investment and subsidy;
 - (g) purpose of expropriation;
 - (h) the nation's commitment to land reform and measures to bring about equitable access to water.
- (6) This section shall not invalidate reasonable legislative and other measures that are designed to redress the results of past racial discrimination in respect of access to land, water and other natural resources.
- (7) Every person and community dispossessed of land after 19 June 1913 as a result of any law or practice which would have been inconsistent with the provisions of section 8 of this Constitution had that section been in operation at the time of the dispossession, shall be entitled to restitution of that land or alternatively, an equitable redress in the manner described by legislation.*
- (8) Every person and community whose existing rights or interests in land are legally insecure as a result of discriminatory laws and practices shall be entitled to legally secure rights to that land or comparable redress as prescribed by legislation.

*Should provision for the restitution of mineral rights be included in this clause?

African National Congress

Received 28 February 1996