

EVENT REPORT

Konrad-Adenauer-Stiftung e.V.

SOUTH AFRICA

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Property Rights for All South Africans

THE ROLE THAT LAND REFORM CAN PLAY IN EXPANDING PROPERTY RIGHTS

On the 4th of July 2018, the Konrad Adenauer Foundation in cooperation with the FW de Klerk Foundation, hosted a conference on the topic of property rights and the role that land reform can play in expanding these rights.

The public event, which took place at the Sunnyside Park Hotel in Johannesburg, was attended by 85 participants consisting of experts on land reform including legal practitioners, representatives from the private sector, and the academia, as well as civil society organizations, religious groups and ordinary South African citizens. The conference's overarching goal was to provide a platform for informed and constructive discussion on property rights and the role that land reform can play in expanding property rights. This also included addressing related issues such as the context of achieving property rights for all, the centrality of property rights for all in successful economies and democracies, property rights and land reform with regards to agricultural and common land. The discussion tried to pursue a holistic approach by focusing on rural, urban as well as communal land.

Need for constructive dialogue on alternative solutions to EWC

The conference started with welcoming remarks given by Mr. Henning Suhr (Director of the Konrad Adenauer Foundation South Africa), followed by an in-depth statement by former South African President, Mr. FW de Klerk (Chairman Emeritus of the FW de Klerk Foundation), and Dr. Theuns Eloff

(Executive Director of the FW de Klerk Foundation). Mr. Suhr highlighted that the current debate is characterised by a **dangerous populist rhetoric** marked by violence, radicalism and emotionalisation. With respect to the upcoming elections, the land issue is often used by political leaders for vote-catching. In order to safeguard the social peace, it is therefore essential to change the manner in which this debate is conducted. Mr. de Klerk contextualised the current debate on property rights and, therein, land ownership, with regard to the ANC's decision to adopt resolutions calling for expropriation without compensation (EWC). During his speech, he warned of EWC as **fundamental threat to investment** and laid out potential **consequences on agriculture and food security**. Moreover, he evoked that **rapid urbanisation should be addressed by land reform** adequately – which proves the actual pressing need for urban housing instead of farms in rural areas. Thereafter, the conference was officially opened by Dr. Eloff, who provided the context of achieving property rights for all South Africans through identifying the legislative framework and institutional mechanisms. He cautioned that EWC will have extremely negative political, economic and legal-constitutional consequences. He stressed that the dire political consequences of EWC or even an amendment of the constitution must **not be underestimated** as South African society will be harmed, if the agricultural sector stops farming, trading, and doing business. Therefore, it is of high relevance to come up with **viable alternatives such as the strengthening of**

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property rights - which can **contribute to more justice and empowerment for all** population groups.

Expert presentations, panel discussions and audience participation depict various views of stakeholders

The conference was divided into two parts: First, the centrality of property rights was outlined, then the role of land reform in extending these rights to all South Africans was framed. Each part consisted of two respective sessions, consisting of presentations by expert speakers from diverse professional backgrounds (e.g. academia, agriculture, think-tanks, economics, trade, law and legislation), who shed light on the topic from the various perspectives. The first session started with presentations from Mr. Pierre Venter (General Manager of the Banking Association of South Africa), Dr. Anthea Jeffery (Head of Policy Research of the Institute of Race Relations), and Mr. Lumkile Mondi (Senior Lecturer at the School of Economic and Business Sciences of WITS University). The overarching topic was the **centrality of property rights for all in successful economies and democracies**. According to Mr. Venter, land reform needs to occur in a manner that does not undermine property rights, or values. All three presentations focused on the need for the acknowledgment of the reality of unequal access to and distribution of power due to **historical disadvantages** and victimisation of black South Africans. Pressing issues such as declining employment and its impact on the agricultural sector were addressed. As potential chances for improving the social and economic development and achieving empowerment for the yet disadvantaged people in society, the speakers emphasised opportunities for **meaningful partnerships between private and public sector** to achieve better agricultural production as well as rural and urban development. These would include cooperation

between key agricultural stakeholders, communities, the state and financiers. Current evolvments on property rights were discussed while the proposed amendment of the Constitution was questioned. The second session featured Mr. Leon Louw (Executive Director of the Free Market Foundation) who introduced FMF's Khaya Lam (My Home) project. This session's focus was on the extension of property rights in urban areas by considering state and private land. Key issues included the interconnection of **land ownership, economic empowerment** through tradability of property, and **restoring human dignity**.

After the presentations had been given, a panel discussion was moderated by Ms. Phephelaphi Dube (Director of the Centre for Constitutional Rights) on property rights and the extension of these rights in urban areas, considering state and private land. The panel discussion, which featured all four speakers, provided the audience with the opportunity to ask questions, raise concerns, or elaborate on certain aspects of the presentations. Questions were repeatedly directed at the definition of terms such as **compensation** and, thus, its implications. The importance of partnerships was stressed while the role of society within land reform and property rights was emphasised.

The second part of the conference commenced with the presentations on the role of land reform in extending property rights to all South Africans. The speakers were Mr. Omri van Zyl (CEO of Agri SA), Prof. Juanita Pienaar (Professor of Law and Fellow at Stellenbosch University), and Mr. Siyabulela Manona (Partner at Phuhlisani Solutions). Mr. van Zyl began his presentation with providing a short introduction on Agri SA, its partners, objectives, and views on land reform. Key themes included **food security** and, therein, availability and accessibility of food supply, **demographic developments, digitalisation** and mechanisation of the

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agricultural sector and its **impact on employment**. Prof. Juanita Pienaar presented her latest research paper on the mechanics of intervention and land reform while she focused on the constitutional dimension during her speech. Therein, she discussed the possible amendment of Section 25 by taking into account individual and communal land ownership. Mr. Manona shed light on South Africa's legacy by pointing out that a **racialized and highly fragmented apartheid-era land administration framework was inherited**. He concluded that land reform has failed for a range of reasons while expropriation is solely one mechanism amongst others to secure access to land for all South Africans. Session four featured Dr. Rosalie Kingwill (Post-Doctoral Research Fellow at the University of the Western Cape) who spoke about the findings and recommendations of the Report of the High Level panel, led by former South African President Kgalema Motlanthe. She specifically addressed chapter three; land reform, restitution, redistribution and tenure security. Therein, critique of a **lack of political will and governmental failures** e.g. the correct implementation of the Constitution and, thus, incoherent policies and laws regarding land reform, were voiced.

The event concluded with a panel discussion moderated by Ms. Zohra Dawood (Director of the Centre for Unity in Diversity) on a possible future way forward concerning land reform with regard to agricultural and communal land. The overarching topic was the role of African countries within agriculture and food production while South Africa's potential was emphasised. Hence land reform should be designed in a way to strengthen agricultural production to guarantee food security in South Africa and its surrounding countries. It was also said, that land reform should **contribute to creating and saving job opportunities as well as restoring industry sectors**, e.g. mining. Furthermore, land reform must focus on the

development of rural areas to tackle the issue rapid urbanisation and **depopulation** of rural areas due to underdevelopment and lack of social and economic opportunities. Last but not least, the rights of inhabitants on communal land were addressed and the importance of building their capacities to make **informed decisions on the use of communal land** was emphasised as well as the need to hand out **title deeds** for the citizens to empower them and increase entrepreneurial aspirations.

Lastly, Mr. Dave Steward (Chairman of the FW de Klerk Foundation) concluded the key issues that were debated during the conference which included property rights, land ownership, unequal land distribution, social injustices, economic empowerment and employment opportunities. Thereafter, he expressed his gratitude to the Konrad Adenauer Foundation, the speakers and the participants whose active engagement during the panel discussions was highly welcomed and much appreciated.

Throughout the conference, it became once more obvious, that a big part of the land debate seems to be a kind of a **substitutional debate for the inequality** in South Africa and its consequences. Therefore, the need for finding ways for guaranteeing equal opportunities for all South Africans was highlighted. By supporting this conference as a platform for discussion between various target groups and experts, the Konrad Adenauer Foundation made a contribution towards **converting the land debate from an emotionally charged and biased issue towards a more constructive and informed dialogue**. Thereby, the aim was to gather facts and figures, taking into account the various perspectives of the stakeholders. Moreover, the conference provided the participants with the opportunity to work together on finding solutions to the pressing land question as well as viable alternatives for potentially harmful ex-

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propriations without compensation. This also entailed finding alternatives especially to a constitutional amendment which might endanger property rights in general and pose a threat for the future development of South Africa.