

Ideology and Action on property rights

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PROPERTY RIGHTS FOR ALL,
Johannesburg, 4 July 2018

A Two-Stage Revolution

- Lenin's 1905 idea: first democracy (ie an end to colonialism), then socialism
- Rapid Asian/African decolonisation post WWII led to Soviet refinement of NDR theory
- NDRs end colonialist oppression, and may move directly to socialism. *Or* they generate key 'anti-imperialist', 'anti-capitalist' shifts, leading in time to 'socialist reconstruction'

Colonialism of a special type in SA

- SA had gained independence from Britain in 1910, whites had long been settled in country
- SACP in 1950: CST idea, whites were 'colonialists of a special type' who were exploiting/oppressing a black colony in SA
- White prosperity resulted solely from this, not skills, enterprise, technological advance
- CST idea brought SA within NDR framework

SACP and ANC endorsement

- SACP in 1962: *Road to SA Freedom*: Key NDR tasks to overthrow 'colonial state of white supremacy', Africanise state and private sector, isolate/suppress whites, take land, etc
- ANC in 1969, Morogoro: Endorsed CST idea and NDR, would implement Freedom Charter
- Land 'redivided', 'mineral wealth beneath soil', banks, monopoly industry, to be nationalised

SACP, The Path to Power in 1989

- ANC must gain political power, embark on NDR, replace/control state institutions, and implement Freedom Charter: ‘the indispensable basis for advance to socialism’
- Urged particular focus on land to ‘break the power’ of whites and capitalist system, introduce large state-owned farms + small plots for people organised into co-operatives.

SACP, Path to Power in 1989

- Wanted more regulatory control, bigger state role in mining, banks, monopoly industry
- These steps would lead to state/ownership and control of key aspects of economy
- ‘Victory in the NDR is most direct route to socialism and ultimately communism’
- Progress would depend on balance of forces, concealing true aims, spreading socialist ideas

Some immediate ramifications

- ANC remains a liberation movement with a historic mission & unique 'entitlement' to rule
- Constitution not binding on it: temporary compromise to advance its long-term aims
- Some rights in it are useful, others are to be white-anted and in time destroyed
- Cadres must be deployed to all key levers of power, including judiciary, media, business

NDR regularly reaffirmed

- Mainly in *Strategy & Tactics* documents adopted at five-yearly national conferences
- 2002 *Preface*: Critical element is elimination of apartheid property relations, by ‘deracialising’ ownership/control of land, plus affirmative action in management, redistribution of wealth
- Property relations are at core of social systems, so changing them needs ‘dexterity in tact’, plus ‘firmness in principle’

Now in 2nd phase of NDR

- From 2011, ANC called for end to constitutional compromises it had been 'forced' to make
- From 2012, ANC called for more radical action to confront 'dominance' of capitalism and gain economic freedom via more 'aggressive' land reform, and other transformation policies
- SACP in 1962: 'drastic' land redistribution is 'indispensable' to socialism, need peasant plots to be collectivised, land ceilings to limit holdings

Stigmatisation to pave way

- ‘Barbaric oppression’ by farmers of workers
- Constant litany re abuses, assaults, evictions, killings: feed ‘brutal racist farmer’ stereotype
- Since 2015, strong focus on stolen land, but message goes back to 1980s, first farm killings
- They ‘slaughtered’ blacks, they ‘killed them like animals’ (Malema in 2016)
- FM deputy editor: whites as ‘armed robbers’

Actions regarding land

- Restitution: 80 000 'old', 80 000 'new', plus 400 000 to come; land to communities, 73% failure rate, 50 to 700 years uncertainty re title
- Redistribution: State buys, leases for up to 50 years to black tenant farmers, few successes
- Land ceilings; valuer general: 50% market value
- EWC: either within Sec 25, or by amending it
- Little progress on title deeds, KEY need

The 'custodianship' issue

- Mineral resources already in 'custodianship' of state; water vested in gov as 'public trustee'
- 2014 Bill proposed to vest all agricultural land in custodianship of DAFF (clause dropped)
- EFF wants state to take custodianship of all land, urban, rural, and customary
- Julius Malema: 'Every title deed will be meaningless' and state will lease out land

Custodianship of land

- Land-use leases for 25 years, revocable at any time
- Will apply to individuals and companies
- Preference can be given to black people, who have long been excluded from land rights
- ConCourt has ruled (*Agri SA*) that ‘assumption of custodianship’ is different from ‘acquisition of ownership’, ie expropriation

State domination versus real freedom

- Friedrich Hayek, *The Road to Serfdom*: 'The system of private property is the most important guarantee of freedom, not only for those who own property, but...[also] for those who do not. It is only because the control of the means of production is divided among many people acting independently that nobody has complete power over us.'

Planned regulatory expropriations

- State does not take ownership, but regulations deprive owners of normal powers & benefits
- 51% indigenisation under PSIRA, 2012 Bill
- Price/export controls on minerals, 2013 Bill
- 30% BEE ownership for mining rights, 2018 mining charter, 10% free carry for labour, etc
- 51% BEE ownership for Eskom (coal contracts), DPW (long leases), sometimes generic codes

Planned regulatory expropriations

- Comprehensive price controls under NHI
- Controls on med scheme members, benefits, payments means few will survive, rest will be rolled into NHI Fund, only med scheme allowed
- Compulsory licences for patented medicines
- Forced divestments to BEE firms in 'concentrated' sectors of economy
- Prescribed investments for pension funds
- Pension funds to be rolled into one NSS Fund?

Other interventions

- Cancellation of BITs (full compensation on expropriation) with UK, 12 European states (but not similar BITs with Russia, China, Cuba)
- Protection of Investment Act, no safeguards
- SADC Protocol on Trade/Investment changed
- Exp Bill of 2015 allows EWC for taking of custodianship and for regulatory expropriations. Its also hard to contest direct expropriations by the state.

Likely road ahead

- Committee says EWC already decided, only modalities in issue, ie how its to be done
- Exp Bill will not be enough, litigation possible
- Constitution will be changed, upheld by ConCourt
- 400 000 new claims will be used as trigger to take custodianship of all land: urban and rural, massive state control of people and economy
- Planned regulatory expropriations will proceed, especially re NHI and NSS Fund