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THE CENTRALITY OF PROPERTY RIGHTS

It is a great honour for me to address this meeting at this critical time in the evolution of the new South Africa.

Twenty-five years after the inauguration of our new constitutional democracy South Africa is once again facing serious challenges:

- massive corruption and incompetence;
- sluggish economic growth;
- mounting social problems;
- expropriation without compensation; and
- the government's NHI proposal.

Some critics now charge that our transition to constitutional democracy 25 years ago was a great mistake and that we should never have surrendered power. Others claim that we could have negotiated a better deal. Some think that we could have retained some or other minority veto.

Let me be clear: if we had not reached a settlement as soon as possible after the collapse of the Soviet Union the balance of forces would have inexorably - and quite quickly - shifted against us. With each passing year we would have been less able to secure our core interests - which is exactly what happened to Ian Smith in Rhodesia.

Clinging to power was simply not an option. We could probably have continued to rule South Africa for another 15 to 20 years under increasingly grim circumstances:

- We would have been completely isolated.
- Our economy would have been crippled.
- A high percentage of the white population would have emigrated.
- Our young men would have spent half of every year fighting on the borders or repressing dissent in the townships.
- Inter-racial animosities would have increased to a level that would have made a mutually acceptable negotiated solution less and less possible with each year that passed.

At the end of the process we would have had to enter into negotiations - but at a time when the balance of forces would have shifted decisively against us.

Some critics would have liked us to carve out a white homeland somewhere in the country. However, there is nowhere in South Africa where whites are close to being a majority. There



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was no possibility that they would have given up their comfortable livelihoods in our cities and trekked into the wilderness to establish a new State.

Yet others think we could have secured a minority veto. They are deluded. Such an outcome would have been rejected by the vast majority of South African citizens and the international community.

As it is, we negotiated a constitution in which all sides had to make painful compromises - but in which they all secured their basic interests.

As Ngoako Ramatlhodi - a prominent ANC ideologist - conceded a few years ago, the balance of forces at the time of the negotiations forced the ANC to make “fatal concessions”. He complained that the ‘regime’ had given up elements of political power to the black majority but had immigrated substantial power away from the legislature and the executive and had vested it in the judiciary, Chapter 9 institutions and civil society. As a result, “the black majority enjoys empty political power while forces against change reign supreme in the economy, judiciary, public opinion and civil society.”

He went on to complain how ‘white economic interests’ had used litigation to curtail initiatives aimed at introducing fundamental changes.

Precisely.

Despite all the crises and disappointments of the last quarter century we find ourselves in a far better place than we would by now have been in had we not transformed our society:

- We are once again part of the international community; we play sport with the world; we can trade and travel unhindered.
- The great majority - although not all - white South Africans have prospered during this period.
- Our Constitution has survived intact.
- The courts remain independent, and together with our media and civil society organisations, continue to defend basic human and political rights. Indeed, they played a central role in ensuring the downfall of Jacob Zuma and his State capture project.

At the same time, there can be no doubt about the seriousness of the problems that confront us:

- Rampant corruption throughout the State and State-owned enterprises is being exposed on an almost a daily basis by the media and the Zondo Commission;
- We are confronted by Eskom’s unsupportable R450 billion debt and the mounting debt of other profligate SOEs - most notably SAA and the SABC;
- All this is bringing South Africa to the brink of a final downgrade to junk status. Rumours that government plans to finance the SOE’s debts by forcing pension funds to invest in State assets simply add to the gloom and despondency;



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- Although President Ramaphosa has taken some praiseworthy steps to restore the integrity of State institutions - including the National Prosecuting Authority (NPA) - none of the main State capture culprits have been prosecuted; the government seems to be reluctant to face down the unions; and is simply not taking the painful steps necessary to deal with the SOE crisis.

Most disturbingly, South Africa can no longer be regarded as a non-racial society. Indeed, under increasingly onerous BBBEE laws the prospects of individuals are once again determined by the colour of their skin - rather than the content of their character.

Our government has virtually abandoned the great tradition of promoting racial reconciliation that was exemplified by Nelson Mandela. Instead, it now consistently pumps out negative stereotypes of white South Africans

- whom it labels with 'original sin';
- whom, in some statements, it evidently does not regard as part of "our people";
- whom it says are not "the rightful owners" of land to which they hold legal title;
- whom it blames for all of the continuing problems of the country; and
- to whom it refers as 'colonialists' - as aliens who do not really belong in South Africa.

Such attitudes create space for even more radical elements to sweep up racial tensions and increase the danger of a serious racial incident - with all the dreadful and irreparable consequences that would ensue.

There is no balance in the manner in which racist remarks and incidents are judged: foolish and unacceptable racist remarks by white non-entities - not intended for public dissemination - are treated far more harshly than incendiary remarks made in public by political leaders openly calling for racial violence.

Indeed, the FW de Klerk Foundation has decided to litigate against the SA Human Rights Commission for its recent judgment that statements made by Julius Malema in which he had said that he was not calling for the slaughtering of all whites - just yet - and in which he had stated that white South Africans were visitors who had no right to own land in the country.

So - as we are only too well aware - we are once again facing serious problems.

I would like to focus on one of them - the threat of expropriation without compensation (EWC).

EWC poses a fundamental threat to investment, economic growth, agriculture, food security and to the national accord on which our new nonracial democracy was founded.

The ANC has, it is true, qualified its support for EWC by insisting that it should not "undermine future investment in the economy, or damage agricultural production and food security...or cause harm to other sectors of the economy".



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But this is a contradiction in terms.

It has been shown time and again that property rights are essential for sustained economic and social development. The top 20% of countries that best respect property rights have average per capita incomes of more than \$50 000 - compared with less than \$7 500 for the bottom 20%.

Countries with secure property rights will always attract more investments than countries where property can be arbitrarily expropriated or nationalised. This is not just a theoretical question - it is a demonstrable fact:

- Satellite images of the Korean peninsula at night show the enormous difference in development between the free-market property-owning south and the communist north;
- The dilution of property rights in Zimbabwe and Venezuela - countries that are viewed as role models by the EFF - has led to economic collapse and misery;
- On the other hand, Deng Xiao-Ping's economic reforms in China - that included recognition of property rights - have resulted in the greatest enrichment of the largest number of people in the shortest period in human history. In 1980 GDP per capita in China was less than \$350 - now it exceeds \$15 000.

Also, if the principle of EWC is conceded with respect to agricultural land, it might in future be extended to other property, including residential homes, intellectual property and shares.

EWC would have a devastating impact on agriculture and food security.

South Africa is not a rich agricultural country. Only 12% of its territory is suitable for arable farming. Grazing can be pursued in another 69% of the country. Agriculture contributes only 2.5% of GDP - which is less than half the contribution of the automobile industry. According to the World Wide Fund (WWF) for Nature just 3% of South Africa's farmers produce 95% of the country's food. The ANC's romantic vision of agriculture providing a meaningful income for millions of small tenant farmers is, to put it bluntly, a pipe dream.

Uncertainty regarding land reform is already having a very negative impact on agriculture. Farmers require certainty of property ownership to raise loans to plant their crops. Banks, already owed R170 billion by farmers, will be reluctant to extend further credit if there is no certainty regarding the collateral value of land. Because of the high level of indebtedness, banks might be the main victims of EWC - with very negative implications for the entire financial system.

The average age of farmers is over 60. Since 1994 the number of commercial farms has fallen by more than half to fewer than 35 000. Last year 20 000 farms were for sale, double the number in 2015. Many farmers are leaving - or want to leave - the land because of uncertainty caused by land reform and because of the terrible toll of farm murders. Some of our best young farmers have gone to farm in other African countries - or overseas - where their skills



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are appreciated. The real challenge will be to retain farmers - of any race - with the proven ability to produce food.

None of this detracts from the pressing need for an equitable and effective process of land reform - which is both a constitutional imperative and a political and social necessity.

The core problem is that there is no clarity about what land reform is supposed to achieve - or of the national interest that is supposed to promote.

Land reform could enhance the property rights and freedom of millions of South Africans - or it could deprive them of their property and reduce them to the status of dependent tenants.

We must also understand where the demand for land reform is greatest. According to recent opinion surveys only 1% of black South Africans are interested in agricultural land reform. There is, however, enormous demand for urban land for housing. This should be the priority for any land reform initiative - and it should end in beneficiaries possessing title deeds to their properties.

One of our most positive economic and social realities is that 7.5 million black South African households already own their own homes. However, the vast majority do not have proper titles deeds. This means they cannot leverage their properties to raise loans to develop businesses or to pursue other economic interests. It has been calculated that the value of these properties may exceed R1.5 trillion. To put things in perspective, this is *five times the value of all the agricultural land in South Africa*.

There are already more than 1.15 million black households that own the land on which they produce food. Another 560 000 households farm in the traditional homelands. According to Agri SA's recent land audit, black South Africans occupy 45% of all the high potential agricultural land in the country - much of it in the traditional homelands. A central priority of land reform should be to transfer legal ownership of this land to the people who actually farm it. This could greatly increase the productivity of some of the best agricultural land in South Africa.

Land reform that results beneficiaries owning land and in the provision of title deeds to black South African homeowners could dramatically, quickly, and effectively enrich and empower over 60% of South Africa's black households. Such an approach would require:

- legislation to fast-track the registration of title deeds;
- a massive programme to inform property owners of the economic potential of their properties;
- cooperation with the banking sector in unlocking the enormous wealth currently tied up in black property; and
- close cooperation with the organized agriculture to ensure that emerging farmers are prosperous and successful.



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If handled correctly land reform could be the most positive development since 1994. However, if handled badly on the basis of EWC, it would be a catastrophe for all South Africans.

What can we do to counteract the threat of EWC and the other problems confronting South Africa?

Firstly, we must be informed. We must understand the ANC's National Democratic Revolution, its origins and its goals.

Secondly, we must rid ourselves of the sense of historic racial guilt that the ANC incessantly imputes to white people. We must have a balanced view of the past - including the undoubted depredations of apartheid - but also of the complexity of the problems that confronted us and the contributions that all South Africans have made to the development of the country.

Thirdly, we should not underestimate the substantial power that the Constitution gives to all citizens.

It gives us the power of free expression.

- We must use all the media at our disposal to tell the world that we reject new forms of racism in the guise of unbalanced affirmative action and demographic representivity;
- We must expose the influence of the South African Communist Party within the ANC Alliance.
- We must reject new forms of racism and should insist on the right of all our citizens to equality.
- We must warn our fellow South Africans of the catastrophic implications of the ANC's current assault on property rights and its wildly irresponsible NHI proposal.

The Constitution gives us other important powers:

- We have the right to assemble, to demonstrate, to picket and to present petitions. We should make use of these powers to give visible and audible expression to our grievances.
- We have the right to strike to defend our interests.
- We have the right to free political activity. We should use it to join the political parties of our choice and to support NGOs that promote the causes that we support.
- We have the right to access the courts. We should fight unconstitutional legislation in the courts at every step of the way. This task should not be left to a few dedicated NGOs. We should all become involved in supporting litigation in defence of our rights and of the Constitution.

However, it is not only from the Constitution that we derive our power:



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- Our skills and economic resources give us very real ability to influence the course of affairs.
- Apart from this, we will be able to count on increasing support from the international community and from South Africans from all races who share our concerns.

Our power will be enhanced if we are convinced of the rightness of our cause.

- We must rededicate ourselves to the values that underlie the Constitution: they include human dignity, the achievement of equality, the advancement of human rights and freedoms; non-racialism and non-sexism; the supremacy of the rule of law; and a genuine multi-party system of democratic government that is open, accountable and responsive.
- We must work not only for the preservation of our own rights - but for the rights of all South Africans.
- We must defend the freedom of expression and the institutions that the Constitution has created to support democracy - including the courts and the chapter nine institutions.
- We must oppose racism in all its forms.

I am confident that we will be able to secure our position in South Africa for many years to come:

- If we can divest ourselves of the guilt that the ANC has tried to instill in us;
- If we can achieve victory on the battlefield of ideas;
- If we can use all the powers with which the Constitution has endowed us;
- If we can free ourselves of our sense of disempowerment; and
- If we are certain of the rightness and the necessity of our cause.

As Edmund Burke noted more than two centuries ago: *“All that is necessary for the triumph of evil is that good men do nothing.”* If we do nothing corruption, misgovernment and new forms of racism will prevail. If we stand together; if we have the will; if we are assured of the rightness and necessity of our cause there is every reason to be confident that we will succeed.