

190308 Ad hoc section 25

SOUTH
AFRICAN
CONSTITUTIONAL
PROPERTY
RIGHTS
FOUNDATION

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Thoko Didiza Ad hoc chairperson of Parliamentary sec 25 Committee Parliament

Dear Madam,

In seeking how best to make expropriation of land without compensation (EWC) more explicit, your ad hoc Parliamentary committee will be making international economic history.

For what sec 25 says is historic:

the state must take reasonable legislative and other measures, within its available resources to foster conditions which enable citizens to gain access to land on an equitable basis"

The reasonable legislative and other measures, within its available resources are that the state must recover all of citizen's unearned land rents, a rates and taxes type user-charge. This recovery is not the same as expropriation for citizens did not make the land nor the land rents. Morally they are therefore not the property of citizens. This is acknowledged internationally. Here are quotes from the Bible, African common law, and Nobel Economists

Land will not be sold absolutely, for the land belongs to me, and you are only strangers and guests of mine. Leviticus 25:23 New Jerusalem Bible

A handful of Nobel economics prize winners and senior economists wrote to President Gorbachev in 1991 about the Henry George Theorem when the Russian economy was being reformed:

"Users of land should not be allowed to acquire rights of indefinite duration for single payments. For efficiency, for adequate revenue and for justice, every user of land should be required to make an annual payment to the state, equal to the current rental value of the land that he or she prevents others from using."

Now the synthesis: Capitalism, Socialism and the New Social Contract
Richard Noyes
Shepherd-Walwyn-London (1991)

In an undated policy pamphlet Joshua Nkomo, leader of the Zimbabwe African People's Union and a past vice President of Zimbabwe wrote:-

We don't believe in trading land or selling land-no. And in any government that I lead, you can be certain those practices must go. That does not mean we will be taking people's land. It means that other people who haven't got money will have a chance to use land, which is the common property of everybody.

And if they have to pay some rates or rent, that will go to a general fund of the people. In this way citizens can use as much land as they want. Our system is this: once you use land, that land belongs to you. But you have not bought it. You cannot sell it to someone. The land belongs to the people, but everything on that land is yours.

Foot note: this last sentence means that improvements can nevertheless be bought and sold for their depreciated value when there is an obligation to pay rent and the rates and taxes to the state.

"The earth is our mother. Whatever befalls the earth befalls the sons and daughters of the earth. This we know. All things are connected like the blood which unites one family. All things are connected. Whatever befalls the earth befalls the sons and daughters of the earth. We did not weave the web of life, we are merely strands in it. Whatever we do to the web we do to ourselves." — Chief Seattle

Simultaneously with the recovery of land rents, the state must put a stop to income taxes and vat Income this is theft and assaults the 7th Commandment.

This will restore to citizen's the full ownership of the fruits of their hard-earned private property in wages, salaries, interest, dividends, profits, capital gains. In other words South Africa becomes a tax-haven like Hong Kong and Singapore. This is not an evasion haven.

The objection to no compensation is the claim they have paid "good money" to buy the land. They have actually paid only sixteen years of rent in advance for unused/vacant land. This will last billions of years, according to MIT. Such land is called freehold because after sixteen years there are no more costs except rates.

When one buys something new, and if looked after land remains pristine throughout its life, the price should be close to an alternative product. There is no such thing as an alternative plot in Claremont that you can get off the peg. But unlike improvements

Land is not produced nor is it reproducible;
It is not man-made. It is a free and permanent gift to mankind.
Land does not permanently wear out, depreciate, spoil or obsolesce
The supply of land is fixed.
Land cannot move.
It is not convertible into other land.¹

Sec 25 makes no distinction between land (which belongs to all South Africans, as the Preamble²) and improvements (which belong to the maker-the owner).

The "more explicit" text suggestions for sec 25 is as the underlined additions:

Sec 25.5: - The state must take reasonable legislative and other measures, within its available resources, including the gradual replacement of all income taxes and vat with land rents, a rates and taxes type user-charge, excluding improvements, to foster conditions which enable citizens to gain access to unused/vacant land on an equitable basis.

¹ Land as a Distinctive Factor of Production by Professor Mason Gaffney, Professor of Economics, University of California. The full chapter, part of Land and Taxation (Shepherd Walwyn Publishers Ltd) is at http://www.masongaffney.org/publications/c9land_distinctive_factor.cv.pdf.

²PREAMBLE

We, the people of South Africa,
Believe that South Africa belongs to all who live in it, united in our diversity.

SEC 25.4 (b) says that "property is not limited to land." This suggests all manner of mischief which is outside the scope of expropriations for "public purposes or in the public interest" as sec 25.2. To be explicit "property is not limited to land" needs a restrictive definition such as:

"except as a last resort, property to be expropriated in the public interest (as sec 25.4 (a)) must be confined to unused and or vacant land, excluding all man-made improvements, wealth and goods."

Unused or vacant land is defined as

"having lain fallow for more than one consecutive year and is unoccupied or unimproved. Arable land used as pasture for the rearing of animals is deemed to be unused or vacant because it could otherwise be used for job creation as market gardening.

My further suggestions to changes in the sec 25 text are

Sec 25.5 (3) c:-

the market value of the property *excluding the value of any unused/vacant land, the land rents of which are deemed to belong to the state.*

Sec 25.5 (3) d: -

The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including the extent of direct and indirect state investment and subsidy in the acquisition and beneficial capital improvement of the property;

This people-centred clause also ends the century's old proletarian and divisive dependency of the landless and jobless. The hostility which bedevils relations between employers and employees, left and right, rich and poor, socialism and capitalism and of course between landless and landed will be tamed once everyone can freely walk away from an unwanted wage contract.

I have prepared a Constitutional life-style blueprint (© Peter Meakin 2018). A well-resourced public/private task force will have to be appointed to make it possible for the state to take the following Constitutionally compatible actions in the next six months

- Announce that National Treasury will substitute all income taxes and vat with land rents, a rates and taxes user-charge over five years, starting in March 2020.
- Decree that everyone who is occupying 250sqm of land or more (the minimum necessary for a frugally comfortable and self-sufficient lifestyle) and which they do not own or lease, is immediately granted perpetual tenure. Neighbours must place boundary pegs in agreed positions for eventual registration by the Surveyor General and the Deeds Registration Office
- The owners must be compensated. These costs will be recovered during the first sixteen years of land tax receipts by the state.
- Direct Municipalities to approve the development of gated farm villages. These are to accommodate up to nine million farm subdivisions of 1000sqm across 2,7 million hectares of unused arable land before March 2020. Villages have proved popular domains for millennia, and this is reminiscent of Les Bastides in medieval France.
- Alert owners of unused/vacant land that Municipalities will increase rates and taxes on unused vacant land by ten times from July 2020, as permitted in Act 6 of 2004.
- Enable the explorers for water to be paid royalties, like prospectors of minerals.
- Waive all land rents across these 2,7 million hectares for five years.
- Prepare new legislation for the administration of small farm villages by Municipalities

So if nine million self-sufficient jobs are to be created 2.7 million arable hectares should be set aside. The 1.8 million allows for infrastructure, amenities and expansion. The 2.7 million amounts to 10% of South Africa's 27m hectares of unused arable land. (Frost and Sullivan, 2007).

The purpose of my copyright protection is that I engaged with Codesa in the wording of sec 25 of Act 108 of 1996 (Constitution of South Africa) and have spent a good part of the last twenty-six years honing and urging the adoption of these Constitutional parameters. That was in my professional capacity and as chairperson of the South African Constitutional Property Rights Foundation.

Now these principles have been accepted I seek a fair remuneration for my work; to cover my costs in guiding it through Parliament and to partly fund a non-profit entity to provide technical and financial support to the new farmers.

I request a fee of thirty cents per day per capita for twenty-five years, payable annually in advance by the state. I also agree to arbitration by an arbitrator appointed by the President of the Association of Arbitrators (Southern Africa) and whose decision will be binding.

I nevertheless authorise you to make this letter available to your committee. It might well require a state of emergency to promptly reposition the economy to conform with this blueprint, the Constitution and the NDP.

Yours Sincerely

Peter Meakin
Registered Professional Valuer
Associate Institute of Valuers
SA Chairperson of South African Constitutional Property Foundation

Land Taxes Additional Revenue from Departmental Savings and Increased Rents once Personal Taxes are Replaced by Land Rents (Land Taxes)

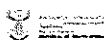
POTENTIAL BUDGET SAVINGS AND EXTRA REVENUE ON SUBSTITUTION OF INCOME TAXES and VAT with 100% TAX ON LAND RENTS PHASED IN OVER FIVE YEARS		2018 Budget Expenses	Actual Savings	Savings from ending deadweight taxes
2018/23 TOTAL BUDGET SAVINGS AT 2018 PRICES				
GOVERNMENT DEPARTMENTS WHICH PRESENTLY MITIGATE THE EFFECTS OF "DEADWEIGHT" TAXES				
Child-support grant		R61 bn	75%	R46 bn
Job creation and labour affairs		R23 bn	50%	R12 bn
Economic regulation and infrastructure		R98 bn	75%	R74 bn
Industrialisation and exports		R33 bn	50%	R17 bn
Agriculture and rural development		R30 bn	75%	R23 bn
TOTAL 2018 BUDGET SAVINGS IN MITIGATING DEADWEIGHT TAXES	million	ha	pa	R170 bn
	pa			
2018 BUDGET: EXTRA REVENUE		Estimate of 2018 Extra (Tax Haven) Revenue	Margin of Error	Real Extra Revenue
Extra Land Rent due to GDP increase	25%	R1 085 bn	50%	R136 bn
Unused (and untaxed) arable and grazing land hectares	50 000 000	R600 pa	50%	R15 bn
Agterscot payment by taxpayers for being relieved of punitive taxes and vat on work and capital (say 9%)	9%	R1 085 bn	50%	R49 bn
Increase in land rents once land is freed of income taxes and vat (15%)	15%	R1 085 bn	50%	R81 bn
EXTRA BUDGET REVENUE				R 281 bn
TOTAL SAVINGS and EXTRA REVENUE (BASIC INCOME GRANT)				R 451 bn
Number of ZA (3,5 head) Families	3,5		60 000 000	17 142 857 mi
BASIC INCOME GRANT per FAMILY				R 26 284 pa
				R 2 190 pm

Land taxes

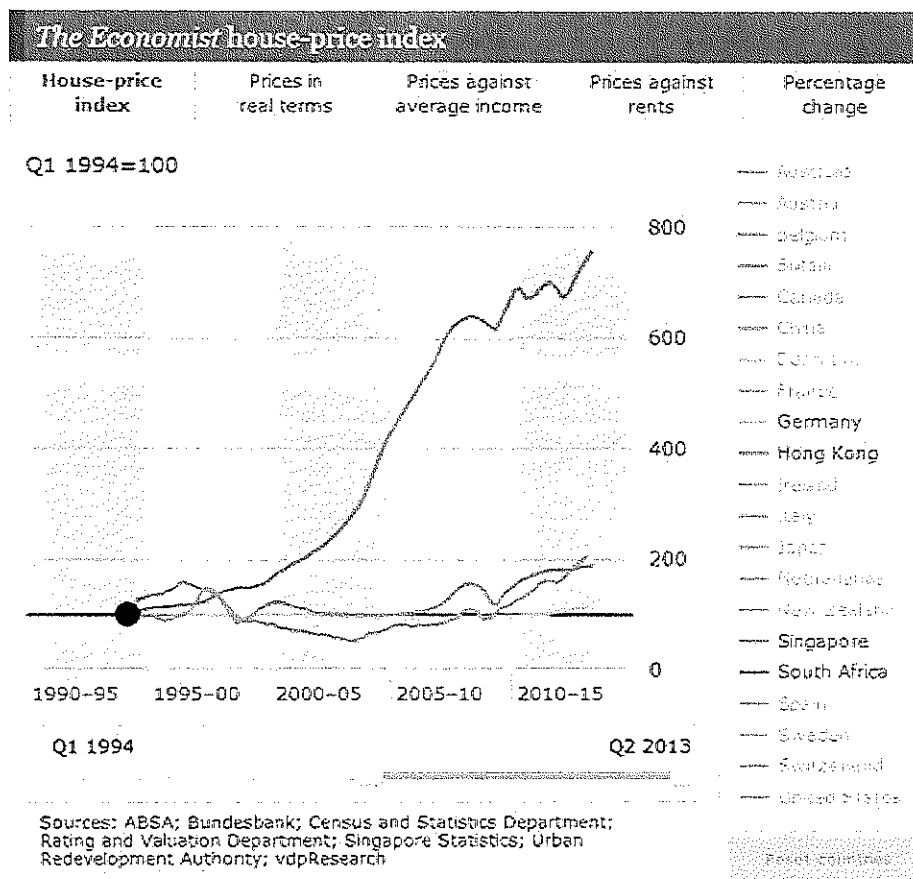
2018
MTBPS

Comment: The Constitution requires that the taxing power not be used in economically destructive ways. Income taxes and value-added taxes create large deadweight losses by reducing entrepreneurial activity and the incentive to work. These harmful taxes should gradually be replaced with a land tax, which are not harmful as they do not distort economic activity.

- National Treasury recognises the potential improvements in efficiency from land taxes (and property), as highlighted in the OECD report "Taxation and Economic Growth."
- Land is an immobile form of capital, which can increase in value due to public expenditures to improve nearby infrastructure
- The Davis Tax Committee does raise some valid concerns in terms of moving fully to a land-use tax, as it would:
 - create a less diversified tax base (which may be less buoyant through business cycles),
 - may create cash flow issues and may lead to instances in which high income individuals face lower tax charges (say tech entrepreneurs)
- National Treasury has, however, been holding and attending workshops to explore this topic
- There are important practical and inter-governmental arrangements that need to be explored further
- The instrument can potentially improve the efficiency of the tax system, but is unlikely to be a sufficient source of revenue to substitute all other tax instruments



1.1.1. The replacement of income taxes and vat with a single land tax has the opposite effect. This graph shows the House Price Index of South Africa in 2013 compared to Germany, Hong Kong and Singapore which tax land more than in South Africa. (House prices are a good proxy for land prices)



2. DEFINITIONS

2.1. LAND

Sec 25 makes no distinction between land (which belongs to all South Africans, as the Preamble³) and improvements (which belong to the maker-the owner).

³PREAMBLE

We, the people of South Africa,

Yet land and improvements are contrary assets:

Land is not produced nor is it reproducible;
It is not man-made. It is a free and permanent gift to mankind.
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The supply of land is fixed.
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2.2. NATIONAL FARMLAND AREAS

2.2.1. Frost and Sullivan (FandS) counted 27 million hectares of unused “potential” arable land in 2017. “Potential” means arable land which is being used as pastures.

2.2.2. If nine million unemployed are settled in Gated Work Villages of 3000sqm per family (including public spaces and room to double up) they will require 2.7 million hectares (10% of FandS estimate).

The Economist estimates South Africa has 14.5 million arable hectares; 2.7m is 19%.

2.3. RENT per HECTARE

2.3.1. South Africa’s 2018 income taxes and vat budget was R1.085tr (28% of GDP). That averages R 8850pa/ha. When the single land tax replaces income taxes and vat it will also average R8850pa/ha, adjusted for inflation.

2.4. RADICAL ECONOMIC TRANSFORMATION MEANS ENDING UNEMPLOYMENT AND THE PROLETARIAN CONDITION

Believe that South Africa belongs to all who live in it, united in our diversity.

⁴ Land as a Distinctive Factor of Production by Professor Mason Gaffney, Professor of Economics, University of California. The full chapter, part of Land and Taxation (Shepherd Walwyn Publishers Ltd) is at http://www.masongaffney.org/publications/c9land_distinctive_factor.cv.pdf.

2.7.1. National Treasury NT has raised the red flags high against the dire inefficiency of taxing wages, salaries, interest, profit, capital gains, and goods. These are deemed to be dead-weight taxes.

2.7.2. The “valid” concerns that the Davis Tax Committee raise are uninformed. Firstly, boom bust business cycles are driven by the toxic mortgages which commercial banks themselves wrote. The more that South Africa taxes high earners the less Foreign Direct Investment will land here.

2.7.3. The NT raises governance issues which been overcome in Germany, Hong Kong and Singapore and South Africa. Here our rates and taxes legislation common to land taxes.

2.8. OCCUPATION AS MARKET GARDENERS IS RULED OUT.

2.8.1. Freedom of trade, occupation and profession as sec 22 and Housing as sec 26 of the Constitution are restrained when a mortgage is required to buy land.

2.9. KARL MARX AND ADAM SMITH AGREED ABOUT LAND TAXES

2.9.1. Adam Smith proposed the Annual Ground Rent, in The Wealth of Nations. And Marx put the collection of rent for public purposes as the No 1 item at the top of his list of 10 issues for action in The Communist Manifestot.

2.9.2. The introduction of land taxes in place of personal income taxes and vat has been described as the nationalisation of land rents and privatisation of work, investment and man made goods and services

2.10. RENDER INTO CAESAR WHAT BELONGS TO CAESAR.

2.10.1. This must mean tax anything that is not man made for that is theft and prohibited in Commandment 7. Taxing the land rents, water, and the spectrum are not theft for they were not man-made.