**SUMMARY**

**of the position of the**

**SA CATHOLIC BISHOPS’ CONFERENCE**

**on**

**LAND OWNERSHIP, LAND EXPROPRIATION,**

**and the**

**NEED TO AMEND SECTION 25 OF THE CONSTITUTION**

**3 September 2018**

**Amending the Constitution**

1. The Catholic Church, as a religious body, does not consider itself competent to pronounce on whether or not an amendment to s 25 of the Constitution is necessary in order to facilitate expropriation without compensation.

2. The Church does note, however, that amending the Constitution is a complex, time-consuming and far-reaching endeavour, and one that should ordinarily not be undertaken if there are other ways of achieving the desired outcomes.

3. We note that various experts, and indeed President Ramaphosa, have expressed the view that land expropriation (with or without compensation) can be achieved without amending s 25. If this is so, then we believe that Parliament should hesitate to go the route of amendment until the exact parameters of what can and cannot be done in terms of s 25 have been authoritatively determined by the Courts.

**The Ownership of Land**

4. It is the long-standing teaching of the Catholic Church that there is no such thing as the absolute ownership of land, or indeed of any kind of property. Land is meant for all the people of the earth, and it should be held and distributed on a fair and equitable basis.

5. All property is owned subject to the principle of the universal destination of goods; that is, the principle that all goods are intended by the Creator first and foremost to be used for the benefit of all, and not only for individual profit.

6. Therefore, the State, acting on behalf of the community, is entitled to deprive an individual owner of his or her ownership if a pressing need of the community requires this. “Political authority has the right and duty to regulate the legitimate exercise of the right to ownership for the sake of the common good.”

7. However, the Church also upholds the right to private property, and recognises that this right is a vital component of social stability, economic progress, and individual human dignity. Therefore, any deprivation (or expropriation) of property must also take into account the rights and needs of the individual owner and, unless extraordinary circumstances indicate otherwise, he or she should be compensated for what they have, in effect, given to the community through expropriation.

**Expropriation Without Compensation**

8. We believe that the well-known circumstances under which the white minority of the South African population acquired ownership of much of the country’s most productive and valuable land during the colonial and apartheid eras may, in some instances, be circumstances that would justify them, or their descendants, now being required to give up that land without being paid compensation.

9. However, some argue that expropriation without compensation will have serious negative consequences such as harm to the economy, a worsening of our levels of unemployment, discouragement of investment, or a reduction in food security. If this is so, then even if expropriation without compensation is a justifiable policy, it may not be a wise one. As to whether or not these negative consequences are or are not likely to ensure, this is a matter for expert advice. We respectfully urge Parliament to avail itself of such advice before either endorsing or rejecting the policy.

**The Need to Avoid Populism and False Solutions**

10. Some utterances by public figures appear to assert that expropriation without compensation is the key to solving the land problem in South Africa. Alternatively, that were it not for the need to pay compensation, much greater progress would have been made in land reform. We are not aware of any evidence that this is the case. On the contrary, numerous studies and expert reports indicate that the slow pace of land reform is due to issues of government competence and capacity; inadequate planning; and corruption.

11. Adopting a policy of expropriation without compensation without first, or simultaneously, addressing these issues would be to ensure its failure, and would simply add to the long and frustrating history of the unresolved land question in our country.

12. No amount of populist rhetoric, from any point of the political spectrum, will help to bridge the unacceptable gap between rich and poor; to address pervasive greed and relentless clinging to past privilege; to change stubborn attitudes of entitlement; to revive our collapsed rural economies; to improve the productivity of the land; or to give hope to the millions of our brothers and sisters who see no prosperity or comfort in their futures.

**Conclusion**

13. Lastly, we call for creative and imaginative thinking from everyone concerned with the land question. Let us examine land tenure models that go beyond simple freehold ownership. Let us also ask whether some of our traditional modes of land control need to be updated to accommodate people’s changing needs. Let us question the gendered nature of much land ownership in our country. Let us ask who benefits when land prices rise; who benefits by speculating; who benefits by keeping land off the market, while waiting for its price to rise. And let us find ways of ensuring that these benefits flow to the community as a whole.

Above all, as an election year approaches, let us not pretend that the land question in South Africa can be solved by any single constitutional, legislative or policy intervention, no matter how tempting it sounds as a slogan.

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