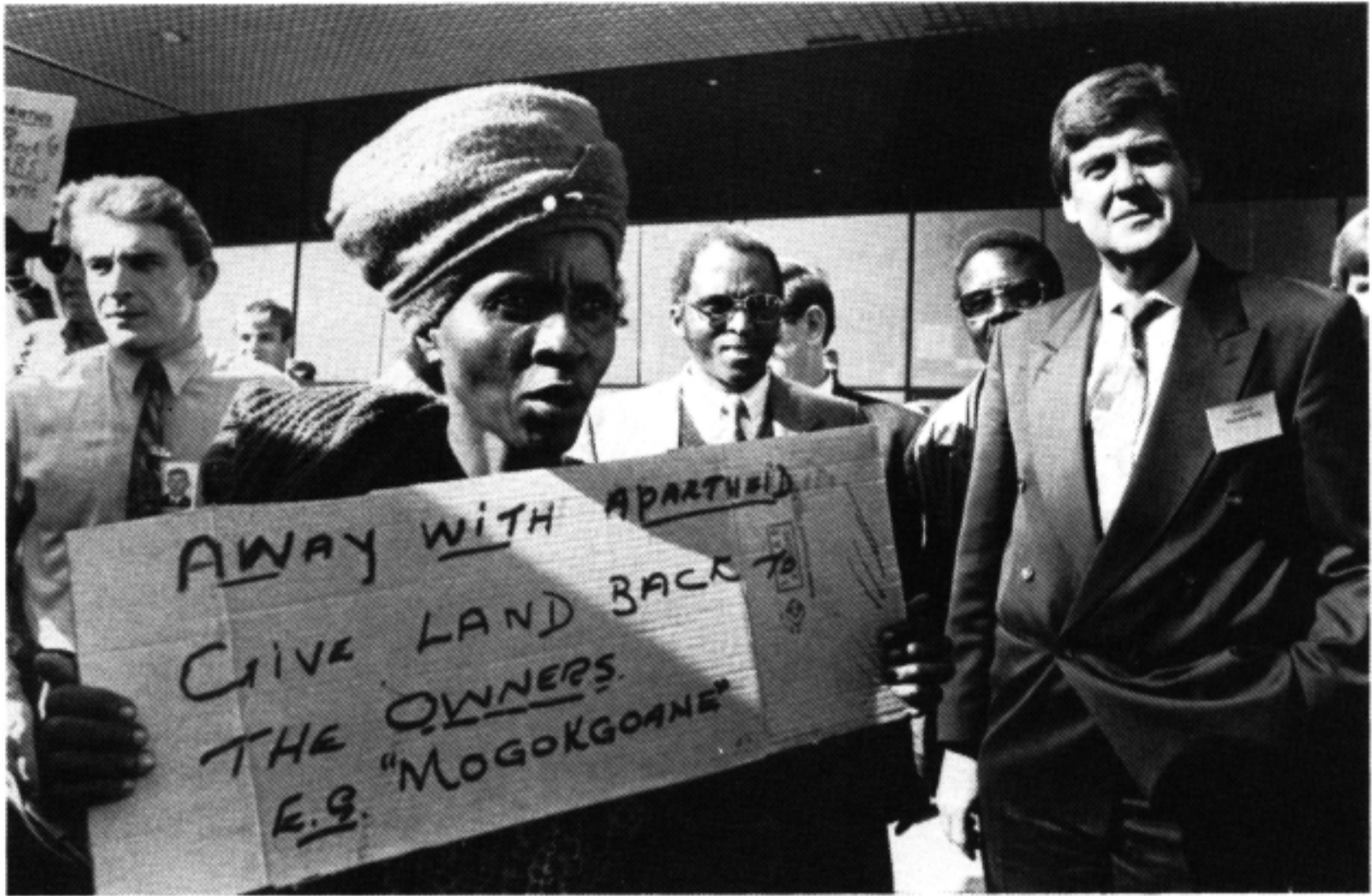


Will the property clause deliver on restoration?



ON November 15, the technical committee at the World Trade Centre responsible for drafting the property rights clause agreed on a new draft which will guarantee land restoration under a new government.

The technical committee amended the calculation of compensation for expropriation in the public interest, making it subject to other factors, not only market value. The technical committee also added a clause on restoration of land. This will apply to people who had their land rights removed after 1913.

It seems that the restitution clause also includes labour tenant and other communities, who have occupied specific pieces of land for generations.

In August, representatives from 80 communities,

including several from Natal, converged on the World Trade Centre to petition negotiators to hear their concerns about the proposed property clause. On that occasion, the ANC's Mac Maharaj assured them that the ANC would never agree to a property clause guaranteeing rights to those who enjoyed privileges through apartheid rule at the expense of those who had been deprived of rights under minority rule. And the NP's Dawie de Villiers undertook to ensure that communities' memorandum would be forwarded to the planning committee and the negotiating council for proper consideration.

The new clause seems to have taken note of rural communities concerns. We trust that the sensitivity displayed by negotiators in paving the way for resolving the sensitive issue of forced

removal will continue on other issues still to be resolved around land access under a new government.

Now that the clause and restoration of land has become a reality, legislation enabling the sentiments of the clause must be drafted and passed. The victims of apartheid land policy should be given every opportunity to influence what these new laws say.

And until the necessary legislation, it is crucial that further current government unilateral action around the disposal of state land is stopped. Recent, hastily passed new land laws should also be reviewed in terms of the property clause and its implications.

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A summary of what the clause says

- Every person or community who was dispossessed of rights in land after 19 June 1913 will be able to claim restoration of these rights. The cut-off date of 1913 for claims will most likely be agreed by parliament.
- Land claims will be processed by a specially set up commission.
- This commission will investigate land claims brought to it, mediate and try to settle land disputes, report to a court on claims that it cannot settle
- If unresolved land claims which the commission refers to the court involve state land, then the court may restore the land to the claimants. If the land is privately owned, the court may tell the state to buy the land or to expropriate it.
- If the state expropriates land, it must pay the current landowner compensation. The amount of compensation will be based on the property's market value, its history of acquisition, the value of investments in the property, how it is being used and the interests of those affected by its expropriation
- If land cannot be returned to claimants, the court may order the state to give the claimants other land or pay the claimants compensation for their loss or give claimants other alternative relief.

Mooibank labour tenants win land rights from Mondi



LABOUR tenants who have occupied a portion of the Louwsberg farm of Mooibank, near Vryheid, for several generations have persuaded Mondi Forests to allow them to continue to stay on the land and use it for their own purposes.

In terms of the agreement, the tenants will get land occupation and use rights on 250 hectares, which Mondi will have surveyed and fenced to separate it from the company's portion.

The only issue outstanding is the basis upon which tenants will stay at Mooibank. Will they have to buy their portion of Mooibank or will it be allocated to them?

It seems that Mondi may not insist that the tenants buy their portion. In a letter to AFRA in October, Mondi said it did not want the issue of payment for the tenants' portion to hold up negotiations.

Mondi bought the farm in 1990 and at first tried to evict all tenants living on the land so that it could establish

forests. However, 14 families refused to move.

These tenants resisted eviction threats and cattle impounding and eventually, in 1992, negotiations began around tenants' demand that they be allowed to stay on the portion of the farm which they had occupied and used for generations. Mondi suggested that they move to Wonderboom, another of its properties in the Louwsberg area. This was not acceptable to the tenants, and in 1993, Mondi agreed to drop its Wonderboom option and to allow tenants to remain at Mooibank and be allocated 150 hectares. But the tenants said this was not enough for grazing and cultivation and that the boundaries which Mondi proposed could mean that eight of the 14 families would have to move.

At a meeting between Mondi and the tenants on October 28 Mondi agreed to increase the tenants' portion to include fields that Mondi ploughed to plant trees but where tenants before used to grow crops.