

Expropriation without compensation: What we need now are calm heads and rational thinking

When the news broke on the eve of the 27th of February that Parliament had voted in favour of the motion brought by the Economic Freedom Fighters on expropriation without compensation, I, like many colleagues working in the agribusiness sector, found myself wondering what more this shortened month could possibly hold in store for us. Thankfully a new month brings new perspective, and it was only after the dust finally settled on February that I could read the motion in detail and decipher exactly what it entails.

Despite the fiery debates that took place in the National Assembly, no actual decision was taken to amend the Constitution. Instead, a decision was taken to establish a committee to review section 25 of the Constitution, host public hearings and then report back to the National Assembly with a series of recommendations at the end of August. This does *not* mean that property rights as we know it have been abolished, or at least not yet, it simply means that the ANC's policy pronouncements made in December 2017 have finally reached a public platform.

In a way, this should be seen as an opportunity because it means that the debate around the merits of an amendment to the Constitution has progressed from a decision taken in a closed session at NASYRC to a public debate at a platform where ordinary South Africans, irrespective of their political affiliation, can make their voice heard. This will also be the platform where agricultural and agribusiness associations must come with well-researched and clearly articulated inputs on how land reform can be expedited in a manner that promotes food security, sustainable transformation and inclusive growth in the industry.

Make no mistake, the Constitutional Review Committee has their work cut out for them. For starters, the committee will have to somehow reconcile the idea that the motion pertained to land only whereas section 25 of the Constitution relates to property in its widest sense. Should the Committee look into changing the manner in which compensation is paid for all forms of property, including moveable items and intellectual property, one can argue that they will be overstepping their mandate as the motion specifically related to land and land reform. On the other hand, should moveable property and intellectual property still be entitled to just and equitable compensation but a special dispensation created for the expropriation of land, one can argue that it unfairly discriminates between industries. After all, freedom, equality and human dignity are founding provisions of our constitutional order.



Secondly, the Committee will be tasked with finding a way in which to balance the need to drastically speed up the process of land redistribution without harming food security and the economy at large. These qualifiers were included in the ANC's resolution from the outset. The motion has resulted in the buck being passed to the Constitutional Review Committee to try and find that balance with whatever amendment (if any) they propose to the National Assembly. In doing so, it is likely that the Committee may invariably be steered closer and closer to the current wording of section 25 as it already represents a delicately crafted compromise seeking to balance often competing interests.

The work of this Committee will be central to the future of our industry and indeed the country as a whole. As such, it is vital that we approach the public consultation process with a clear mind and well reason, rational inputs that will take the sector and the country forward. In doing so it is worth remembering exactly how we got to this situation; it may be the recognition of property rights in the spotlight, but it has taken centre stage because we have failed as a country to expand the benefits of secure property rights to the majority of South Africans.

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