



MEMORANDUM

EXPROPRIATION WITHOUT COMPENSATION

A DISASTER IN WAITING

1. Expropriation without compensation

Once the ruling ANC had adopted a policy that land should be expropriated without compensation at its 54th National Conference in December 2017, Cyril Ramaphosa, its newly elected President, said that taking the land owned by white farmers should increase food production and that “South Africa could turn into the ultimate paradise if the implementation of the policy of expropriation of land without compensation leads to higher food production”. He added: “We can make this country the Garden of Eden.”¹ On 27 February 2018, the South African Parliament adopted a motion that a process had to be started to amend Section 25 (the property rights clause) in the South African Constitution to allow for expropriation of land without compensation.²

“(A)lmost 400 years ago, a criminal by the name of Jan van Riebeeck landed in our native land and declared an already occupied land by the native population as a no-man’s land,” argued Julius Malema, Leader of the EFF, as he introduced the motion in Parliament, which was supported by the ruling ANC. “Van Riebeeck, a first descendent of the Dutch to arrive in the Cape would later lead a full blown colonial genocide, anti-black land dispossession criminal project, arguing that simply because our people could not produce title deeds, this land, that they have been living in for more than a thousand years, was not their own.”³ He continued: “The time for reconciliation is over; now is the time for justice.”⁴

David Mabuza, Deputy President, threatened white farmers with a “violent takeover” should they not volunteer some of their land.⁵

Other than the clear racist motivation that serves as a foundation to this motion, here are at least three major problems with the South African government’s stance on land reform. The first is that it is based on a distorted perception of history. The second is that there is no real “hunger for land” – in fact, the vast majority of black people in South Africa have no interest in owning agricultural land. The third is that where the government has intervened with regard to landownership, it has had catastrophic results. But before these issues are addressed, the dishonesty of the South African government regarding expropriation of property should be pointed out.

2. Dishonesty regarding expropriation

President Cyril Ramaphosa described his pilgrimage to the World Economic Forum (WEF) in January 2018 as “very very successful”. The main aim of this trip was to encourage international investors to invest in South Africa.⁶ Less than a month after the wooing of international investors under the assumption that property rights will be protected in South Africa, the South African Parliament decided that the South African Constitution would have to be amended to allow for the expropriation of property without compensation.

It is argued that this policy must be executed so that more black people can own property. It is however evident from the policy documents of both the ruling ANC and its supporting EFF, that the intention is for the state to own the land, not private individuals. This point is further proven by the fact that only 6,3% of land that had been bought by the state, has been transferred to private ownership.⁷

1 News24. (7 January 2018). Taking land should increase food production – Ramaphosa.

2 News24. (27 February 2018). National Assembly adopts motion on land expropriation without compensation.

3 Hansard (Unrevised). National Assembly. (27 February 2017). pp. 25–26.

4 Hansard (Unrevised). National Assembly. (27 February 2017). p. 28.

5 IOL. (7 April 2018). Mabuza appeals to white farmers to share their land.

6 Fin24. (28 January 2018). Ramaphosa wows Davos money.

7 Interview with Johann Bornman. (19 April 2018).

Furthermore, the motion to expropriate property without compensation is based on a flawed state-driven land audit that is soaked with fabrications and methodological errors.

3. Flawed perception of history

It is often argued that land reform had to be executed in order to correct historical injustices. While it is certainly true that a variety of injustices occurred throughout South Africa's history, it should be pointed out that the history of land ownership in South Africa is more complex than that which is regularly argued by political leaders. The truth is that white owned land was acquired in three different ways, namely occupation of empty land, acquiring of land through negotiation and conquest. The focus of this report is not to provide a historic account of events. Two comments should however be made regarding the obtaining of land through conquest. The first is that it was a common practice among black tribes at the time.⁸ The second is that obtaining of land through conquest was not that common among white people who settled in South Africa. The majority of land was either acquired through the occupation of empty land, or through negotiations with local black tribes.⁹

4. No “hunger for land”

The Restitution of Land Rights Act¹⁰ allowed for people to institute claims for land of which they had been deprived of as a result of racially discriminatory practices such as forced removals. By the time the cut-off date was reached in 1998, about 80 000 land claims had been filed. The government was not satisfied and opened the process again in 2014, claiming that they believed that 400 000 land claims would be filed in total.¹¹ A little known fact is that 57,8% of land claims were for urban land, as opposed to rural land.¹² Furthermore, what came as a source of frustration to the government was the fact that 93% of those who had instituted land claims indicated that they did not really have an interest in owning agricultural land and that they would prefer to receive money as compensation. The government responded angrily to this, stating that it was “hurting land reform”. Bheki Mbili, in charge of Land Restitution Support in KwaZulu-Natal, explained what black land claimants say:

Many of the claimants already have small pieces of land and some don't even live in those areas where their forefathers were removed from. Some say to us that they don't want more land than they already own and the risk involved if they ask us to buy them those huge pieces of land that will go out of production.

He then explained why this was a problem for the government:

The problem with this is that if you look at the outcome of first phase of the land audit, the amount of land that is private land particularly that is owned by white people in this country is still in the region of between 70 and 80%. We can only change the land ownership pattern if people opt for restoration. If they opt for financial compensation the pattern stays the same. If you take the money you don't dent the problem that currently exists.¹³

8 Changuoin, L. and Steenkamp, B. (2011). *Omstrede Land*. Pretoria: Protea Boekhuis. p. 30.

9 Changuoin, L. and Steenkamp, B. (2011). *Omstrede Land*. Pretoria: Protea Boekhuis.

10 No. 22 of 1994.

11 The Citizen. (10 July 2014). 400 000 Valid land claims remain.

12 Agri Development Solutions database. Interview with Johann Bornman. (19 April 2018).

13 TimesLive. (30 May 2017). Land claimants want the cash not the land, says KZN Land Claims Commission.

Notwithstanding the fact that the figures of white landownership provided by Mbili are inflated (at least 34,5% of all land in South Africa and 26,7% of agricultural land is black-owned),¹⁴ the problem is therefore that the South African government is dedicated to reducing the amount of land owned by white people, while this is not regarded as a priority by the majority of black South Africans.

This is also evident from the rapid pace at which urbanisation among black South Africans is taking place. Black South Africans, more than any other group, seem to want to live in cities, rather than in rural areas. From 2000 to 2015, the population of so-called black Africans in Johannesburg increased by 76,7%. The corresponding number for Cape Town is 122,4% and for Pretoria it is 71,6%. During the same time frame, the number of white people in Johannesburg declined by 8,1% and in Cape Town by 0,7%. In Pretoria, the number of white people increased by a mere 2,7%.¹⁵

With regard to the intention to enter agriculture, Statistics South Africa (SSA) found that only 2,8% of all university students enrolled to study agricultural science and similar courses.¹⁶

Furthermore, when the Institute of Race Relations (IRR) surveyed South Africans and asked them what they believed had to be done to improve their lives, a mere 1% indicated that they believed that land reform would improve their lives. The survey also found that a mere 0,6% of people in South Africa regard land distribution as South Africa's most serious unresolved problem. It is noteworthy from this survey that white South Africans regard land reform as a more pressing issue to be resolved than black South Africans.¹⁷

5. Failure of land reform

According to the South African government, about 9% – almost 8 million hectares – of agricultural land has already been distributed to black African people.¹⁷ However, it was admitted that more than 90% of farms distributed by the state to black African communities failed and usually reverted very quickly either to subsistence farming or to squatter camps.¹⁸ A study by the Land Bank found that approximately 4 000 farms had been acquired since 1994 at a cost of R10 billion, of which only 10% were productive.¹⁹ While the South African government had already spent more than R45 billion on land reform, only 6,3% of the land that had been acquired by the state had been transferred into private land.²⁰

6. Conclusion

Land reform is a political ploy, a policy that is rigged for failure and one that only serves to escalate the friction that already exists with regard to South Africa's food producers.

It is clear that the South African government's push for expropriation without compensation is founded in racist sentiment and a distortion of history. It is also clear that the so-called hunger for land is largely non-existent – particularly with

14 Agri Development Solutions database. Interview with Johann Bornman. (19 April 2018).

15 Institute of Race Relations. (2017). South Africa Survey 2017. pp. 28–29.

16 News24. (26 February 2017). Land reform is a political ploy.

17 TimesLive. (10 March 2018). Land debate is clouded by misrepresentation and lack of data.

18 Mail & Guardian. (2 March 2010). Land reform: Use it or lose it, says minister. See also Johnson, R. W. (2015). How Long Will South Africa Survive?

19 Business Day. (6 June 2017). *Land policies try to solve imaginary issues at expense of real problems*. See also Fin24. (22 May 2017). *Govt. sits on 4 000 farms, yet hints at expropriation*.

20 Interview with Johann Bornman. (19 April 2018).

regard to agricultural land. Furthermore, it is clear that land reform has already been disastrous to the extent that it has been executed in South Africa.

While the primary targets of this policy are clearly white farmers, the primary victims might just as well be the very people that the South African government claims to represent.
