

ANC's spectacular flip-flop on land

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On February 28 2017 the National Assembly debated an Economic Freedom Fighters (EFF) motion calling for the amendment of section 25 of the Constitution to make provision for the expropriation of land without compensation.

ANC MPs shot down the idea, saying there was no need to change the Constitution and all that was necessary was to implement it.

The debate was led by EFF leader Julius Malema and he offered his party's 6% to the ANC to make up the required numbers to change the Constitution, to no avail. Only the smaller parties - African Independent Congress, United Democratic Movement, Agang SA, Pan Africanist Congress and African People's Convention - supported the EFF's motion.

Without the governing ANC and the majority opposition DA's backing the motion did not carry.

"There is no need to amend the Constitution; we need to implement it," the ANC said.

Almost a year to the day, the same motion resurfaced in the same Assembly sponsored by the same EFF and, this time around, it was approved by an overwhelming majority of the National Assembly's MPs and political parties.

It was a moment to behold as the ANC and EFF spoke glowingly about each other.

So, what has changed from the time the House shot down the EFF's proposal?

For one, the party held its 54th national conference in December during which it resolved, as a matter of policy, to pursue expropriation of land without compensation.

"This should be pursued without destabilising the agricultural sector, without endangering food security in our country and without undermining economic growth and job creation," the conference declaration said.

Ten months earlier ANC MP Phumuzile Ngwenya-Mabila, who chairs the National Assembly's portfolio committee on land reform, was adamant: "We know the history of land dispossession. We also know how we are going to address that. We are not going to be told what to do. We are not in alliance with anyone else. We are a ruling government."

In "totally rejecting" the EFF motion, Ngwenya-Mabila argued that expropriation must be subject to just and

equitable compensation as indicated in section 25(2)(b) of the Constitution, the amount of which and the time and manner of payment of which must have been agreed to by those affected or decided or approved by a court.

She said the ANC believed the courts would play a role in mediating disputes between parties.

"Expropriation with compensation takes into account the current use of the land; the history of acquisition; the market value of property; the extent of state investment and subsidy in the acquisition; and the beneficial capital improvement of property," she said. "We don't support this motion. We still believe that a just and equitable compensation is a solution as in other African countries, such as Lesotho, Zambia, Malawi and Namibia."

Another ANC MP, Phumzile Mnguni said the EFF's motion did not resonate with the ANC.

Deputy Minister of Public Works Jeremy Cronin said at the time it was absolutely misguided to treat the property clause in the Constitution "as an albatross around our necks".

"It was the best and necessary concession that was made in a difficult balance of forces during the negotiated settlement in the 1990s. I agree, therefore, with former deputy chief justice Dikgang Moseneke that clause 25 is in fact radical in both spirit and in its letter. And I concur with the Judge that it is misguided to blame clause 25 for the weaknesses in land reform." He painted a scenario in which an EFF government was

implementing the expropriation of land without compensation and warned: "What if ... we get a parasitic emerging elite linked to a future government pursuing private accumulation?"

"Imagine how, in the name of public interest, piles of expropriation without restraint and compensation would be exploited? And we know exactly what will happen, because we just need to look across the Limpopo to see who the main victims would be when this happens.

"The same black majority who have been oppressed in the past; farm workers, the urban and rural poor, with chronic food shortages and skyrocketing food prices, as a small connected elite seizes land in the name of the public interest. So, be careful what you wish for ... We don't need to change the Constitution, we need to implement it," said Cronin then.



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