

LIKE IT OR NOT, THE 2020 EXPROPRIATION BILL REMAINS TRUE TO OUR CONSTITUTION

By Patricia de Lille

In the advent of the digital age, the internet and its capacity for blazing speed and massive volume, misinformation and deliberate fear mongering, creating unnecessary panic and division, can be considered the greatest enemy of land restitution, redistribution and land tenure in our Rainbow Nation.

Since the Land Expropriation Bill was published in October 2020 and submitted to Parliament for further processing, material facts about the bill have been twisted and the truth has been distorted. The perpetuation of lies has become a consistent mechanism used by opponents of land reform.

BILL REMAINS TRUE TO OUR CONSTITUTION

Some of the opponents of land reform, such as the Democratic Alliance (obviously) and by extension the Institute of Race Relations (IRR) who has called for the rejection of the “draconian” bill, opining that it is unconstitutional and will strip millions of South Africans from their homes and other assets without fair procedures including the courts or equitable compensation.

The truth is the 2020 Expropriation Bill, which replaces the Expropriation Act of 1975, remains true to our Constitution. It was drafted by the Department of Public Works and Infrastructure (DPWI) after widespread consultation and with the assistance of senior attorneys and constitutional experts.

Enemies of land reform who are tone deaf whiners want us to forget that for centuries people of colour have been denied the right to own property. The constitution obliges the state to take “reasonable” legislative and other measures to enable citizens to gain access to land.

SECTION 25

Expropriation is only one of the methods that may be used for the acquisition of land that could be used for land reform purposes.

Section 25 of the constitution provides a solid and clear foundation for the implementation of the law and states that “*property may be expropriated only in terms of law of general application for public purpose or in the public interest; and subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.*”

Therefore the constitution is very clear on why property may be expropriated and that the compensation will be determined by agreement between parties and in the absence of an agreement, the land owner can approach the courts.

It does not prescribe that nil compensation will be paid in all circumstances. The Bill provides that the amount of compensation will, in the absence of agreement, be determined by the courts.

It makes no sense that a democratic government will revert to apartheid style practises of taking homes or business premises away from people. Surely, no court would agree to this either.

PEDDLING LIES ABOUT NO AND NIL COMPENSATION

The IRR’s Dr Anthea Jeffreys and her like-minded, tone deaf whiners and enemies of land reform also peddle the lies that the bill is unconstitutional because it proposes no and nil compensation.

At her age, I would like to know what Jeffreys did to oppose the 1975 Expropriation Act. There are many examples and I am sure that Dr Jeffreys must be aware of them.

The bill’s compensation provisions are anchored around section 25 of the Constitution which states that “*no one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.*”

The bill and the constitution are clear: compensation for expropriation must be “just and equitable” having regard to all relevant circumstances. The Bill outlines circumstances when it may be just and equitable for nil compensation to be paid.

The IRR and other commentators pretend as if nil compensation is or will be a foregone conclusion in all expropriation cases. Nowhere does the bill or the constitution say this.

FACTS, TRUTH AND HONESTY

At the beginning, I deliberately mentioned the phrases 'facts and truths' because they are intimately related. Facts, truths, supplemented by honesty are socio-economic and political ecosystems.

The Expropriation Bill brings certainty by clearly outlining how expropriation can be done and on what basis. What we all must acknowledge is that widespread land reform is long overdue and it is urgent.

Let us keep the debate alive on the 2020 Expropriation Bill, but let us do so responsibly. Let facts, truths, and honesty serve as mechanisms that keep harmony in our beloved Rainbow Nation.

To all the Expropriation Bill opponents, please remember this saying by an unknown author: "Your opinion is your opinion, your perception is your perception, do not confuse them with facts and truths".

Patricia de Lille is Minister of Public Works and Infrastructure.