

## **A SOCIO-ECONOMIC IMPACT ASSESSMENT OF EXPROPRIATION WITHOUT COMPENSATION**

### **3. THE POLITICAL, CONSTITUTIONAL AND SOCIETAL IMPACT OF EWC**

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This is the Foundation's third and final response to the government's woefully inadequate socio-economic impact assessment (SEIA) of the likely consequences of the Expropriation Bill. It will consider the origins of Expropriation Without Compensation (EWC) that underlies the Bill, the intentions of the ANC - and the political, constitutional and societal implications for South Africa.

The core question relates to the ANC's intentions. Why is the government so intent on amending section 25 of the Constitution when the risks are so great and when its own High-Level Panel advised it that section 25 as it now stands is not an obstacle to land reform?

Many observers, shell-shocked by state capture, load-shedding, COVID and an incessant barrage of inexplicable ANC initiatives may be inclined to dismiss EWC as yet another manifestation of meaningless ideological over-reach. They think that there is no way that the government would be crazy enough to commit economic *harakiri* by further eroding property rights.

In fact, the ANC's intentions can best be discovered by simply believing what its leaders repeat again and again in their Strategy & Tactics documents, their policy papers and in speech after speech.

The ANC has long proclaimed that "a critical element of the programme for national emancipation" should be "the elimination of" what it calls "apartheid property relations". In its 2002 Strategy & Tactics documents it declared that "the central task in the current period is the eradication of the socio-economic legacy of apartheid; and this will remain so for many years to come." In the ANC's view this was a continuing struggle "which, as a matter of historical necessity, will loom ever larger as we proceed along the path of fundamental change".

In March 2012 the ANC announced that the time had come for it to take this process to the "second phase" of the national transition. The second transition was needed because, according to Jeff Radebe, "our first transition embodied a framework and a national consensus that may have been appropriate for political emancipation, a political transition, but has proven inadequate and inappropriate for our social and economic transformation phase."

In June 2012 President Zuma told the ANC Policy Conference that the balance of forces had shifted sufficiently in South Africa and internationally for the ANC to abandon compromises it made during the first - or "political" - transition. "We had to make certain compromises in the national interest.... For example, we had to be cautious about restructuring the economy, in order to maintain economic stability and confidence at the time."

The latest iteration of the second phase is "Radical Economic Transformation" (RET) - which President Zuma defined as a "fundamental change in the structure, systems, institutions and patterns of ownership, management and control of the economy in favour of all South Africans, especially the poor, the majority of whom are African and female..." (Please read this quotation again, slowly and carefully and consider all its implications.)

The ANC's land reform vision was spelled out unambiguously ten years ago in the 2011 Green paper on Land Reform. It defined agricultural transformation as 'a rapid and fundamental change in the relations (systems and patterns of ownership and control) of land, livestock, cropping and community.' Please note: "fundamental change...in patterns of ownership and control".

In July 2019, Dr Vuyo Mahlati, the Chairperson of the Presidential Advisory Panel on Land Reform and Agriculture, confirmed that his Panel wanted “*a future where land ownership must approximate the demographic of the country...*” This means that the white share would ultimately be a shrinking 7,8%.

The threat to property rights posed by EWC is not limited to agricultural land: it includes all forms of property and has been articulated in numerous ANC statements. According to Minister Rob Davies on 2 October 2012

“Black economic empowerment is not just a social and political imperative. We need to make sure that in the country’s economy, control, ownership and leadership are reflective of the demographics of the society in the same way the political space does.”

It is accordingly impossible to consider EWC outside the context of Radical Economic Transformation and the ANC’s ultimate goal of establishing a National Democratic Society in which property, land and jobs would be distributed on the basis of demographic representivity. Indeed, it is difficult to see how the ANC would be able to achieve this vision without the severe dilution of property rights inherent in EWC.

ANC leaders evidently believe that the current COVID crisis has created an opportunity to restructure the economy in accordance with RET. On 25 April 2020 Minister Nkosozana Dlamini-Zuma said the Covid-19 crisis presented “an opportunity for South Africa to accelerate the implementation of some long agreed upon structural changes to enable reconstruction and growth”. Ten days later, on 5 May 2020, President Ramaphosa observed that the COVID crisis had created “an opportunity to relook at our economic side of life to see how we South Africans reconstruct our economy after coronavirus...” and added that “Radical Economic Transformation must underpin the economic future...”

They are no doubt heartened by the upsurge of critical race theory that has inundated Western elites and may have concluded that the international balance of forces is now more favourable than it has ever been for the ANC to deal with its own “whiteness” problem in South Africa.

The application of demographic representivity to the ownership of land - in the same mathematical manner in which it has been rigorously applied in the public sector - would mean that

- the great majority of white commercial farmers would, over time, be forced from their land - land that their ancestors may have farmed and developed for generations;
- this might involve them in ruinous personal losses; and that
- the main criterion for access to land in South Africa would once again be race.

Minority company owners, progressively squeezed out of their businesses by tightening BBBEE and employment equity legislation, would experience similar problems.

All of this would, quite understandably, cause enormous bitterness, alienation and racial friction. It would leave in tatters the Constitution’s goal of a South Africa united in its diversity. It would be a potentially fatal blow to the great constitutional accord that we South Africans negotiated with so much hope and goodwill 27 years ago.

So, yes, the ANC is serious about EWC, RET and the NDR. Its statements are not just empty language: they reflect what the ANC has actually done since 1994 in progressively dispensing with the constitutional compromises that were deemed to be “inadequate and inappropriate” for social and economic transformation.

We must believe what the ANC tells us, again and again, about their intentions. However incredible and irrational they may appear to non-ANC observers, they are strongly supported by most ANC members:

- many cadres are true believers in the millenarian vision of the National Democratic Society;
- Africanists are motivated by the prospect of resolving the 'national grievance caused by colonialism and apartheid';
- compradors, having laid waste the public sector, are focusing their attention on the enormous opportunities for enrichment presented by white-owned farms and businesses;
- still others will relish the enormous - and perhaps unchallengeable - political power that EWC would give the ANC;
- the government will see the access that EWC might give it to the trillions of rands in pension funds and the insurance industry as the easiest way of staving off impending bankruptcy; and
- the SACP and Cosatu will see EWC as an important step in the direction of socialism via the NDR - even though - or because - its implementation will presage the destruction of South Africa's capitalist economy.

More cautious cadres, wary of the economic implications of a direct assault on property rights, will advise that EWC should be implemented incrementally, step by step, at the pace allowed by the evolving balance of forces. They will agree with the Strategy & Tactics recommendation that "the tensions that decisive application to this objective (the racial redistribution of wealth) will generate will require "dexterity in tact and firmness to principle". This means that each step in the racial redistribution of wealth will be accompanied by profuse reassurances to intended victims that the ANC means them no harm.

Where does all this leave the intended victims - and those South Africans who believe in economic freedom, property rights and non-racial constitutional democracy?

In a very, very perilous predicament.

It is essential that they - and all South Africans of goodwill - should unite to oppose EWC with all the resources and determination that they can muster. This may be the last chance to stop the ANC's NDR juggernaut. As the Americans put it: "This may very well be the ball game."