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EXPROPRIATION WITHOUT COMPENSATION

By Dave Steward: Chairman, FW de Klerk Foundation

What is 'expropriation without compensation' (EWC), where does it come from - and what are its implications?

To start with, EWC makes no sense.

- Property rights are an indispensable requirement for all successful economies and for all genuine democracies.
- Despite the ANC's qualifications of EWC, any dilution of property rights would inevitably have a negative impact on agricultural stability, food security, investment and economic growth.
- EWC is unnecessary. Section 25 of the Constitution already makes adequate provision for land reform. The failure of 90% of the government's land reform initiatives is, according to the recent Report of the High Level Panel, due to the incapacity of government departments and the corruption of state officials. What reason is there to suppose that land redistribution arising from EWC would fare any better?
- EWC would cause a financial crisis for banks and the Land Bank, which are owed R170 billion by the agricultural sector.
- Expropriation is not necessary. Millions of hectares of government-owned land are available for redistribution and 20 000 farms are up for sale.
- The average age of commercial farmers is over 60. Thousands of farmers are leaving the land because of farm murders, recurrent droughts and uncertainty caused by land reform. Some of our best young farmers are emigrating to countries where their skills are eagerly sought. The ANC's real challenge may in future be to keep farmers - of whatever race - with proven food-producing abilities on the land.
- There are other promising approaches to land reform. Organised agriculture has repeatedly - but without any effective response - made practical proposals for the development of a prosperous black agricultural sector - and land reform schemes in the Western Cape have met with considerable success.
- The ANC's approach to land reform would actually undermine black property rights. It would not result in greater black land ownership - but in most cases state custodianship. EWC would also undermine the property rights of the 7.5 million black households that own their homes. The value of these homes (R1.5 trillion plus) is *at least five times the total value of all the agricultural land in South Africa.*

EWC is based on hopelessly - and perhaps willfully - misleading information:

- Opinion polls show that land hunger among black South Africans is not for agricultural land, but for urban land for housing.
- 93% of claimants in restitution cases have chosen cash settlements rather than land (although many such claims related to urban - and not agricultural - land).
- Black South Africans do not own only 2% of agricultural land as claimed by the government. According to AgriSA's recent land audit, 29.1% of agricultural land by value



and 46.5% of all high potential farmland is already in black hands - but it is mainly unproductive - partly because it is not owned by the farmers who work it.

- Putting millions of new farmers onto tiny farms that they do not own is not the solution to South Africa's economic or agricultural problems. Agriculture contributes only 2.7% to GDP.
- 75% + of all our food is produced by only 100+ mega-farms. According to a WWF report in 2015, just 3% of South Africa's farmers produce 95% of the country's formal sector food. The other 5% is produced by 220 000 emerging farmers and two million subsistence farmers.
- Finally, and most seriously, EWC is based on the fallacy of what President Ramaphosa refers to as "the sin of colonialism" - in effect that "whites stole all the land they now own". The subtext, propagated by the EFF, is that they have no real right to own agricultural land anywhere in South Africa - even though it may have been in their families for generations or have been purchased perfectly legitimately before and after 1994.

Why then is the ANC persisting with EWC?

EWC was not simply an aberration that emerged out of the blue from the tumult of the ANC's 54th National Conference. It is the next logical step in the ANC's National Democratic Revolution (NDR) and follows decades of discussion on the need to dispense with, or amend, section 25 of the constitution (the property clause).

The redistribution of land, property and wealth has been a central theme of ANC/SACP ideology since 1956 when the *Freedom Charter* declared that "all the land shall be redivided among those who work it." The NDR calls unambiguously for the "deracialisation of ownership and control of wealth, including land". Radical Economic Transformation (RET), the latest iteration of the NDR, is 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..."

RET is the official policy of the ANC and is mentioned in virtually every policy statement and speech. It is already being implemented through a raft of anti-property legislation and progressively more constricting affirmative action and BBBEE measures.

Despite this, it is routinely discounted by commentators, business and white South Africans. Yet "a fundamental change in... patterns of ownership, management and control of the economy" would clearly require the dilution not only of white land ownership - but also of white ownership of companies, shareholding, management and employment in the private sector.

Where does President Ramaphosa stand in all of this? He is a shrewd and experienced businessman and must be aware of the enormous risks involved in EWC. He is also one of the main progenitors of the National Development Plan (NDP) which calls for "an environment in which business can invest, profit and contribute to national goals" and which warns against politics dominated by ethnicity and factionalism. Also, it was probably he who



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ensured that the original Nasrec resolution was qualified by the requirements that EWC should not damage food security, agricultural job and investment in the economy.

Nevertheless, he has supported RET and EWC in statement after statement. RET and EWC also accord with his reported revelation, in the late Mario Ambrosini's autobiography, that his 25-year "frog in the pot" plan for whites "meant that the black majority would pass laws transferring wealth, land, and economic power from white to black slowly and incrementally, until the whites lost all they had gained in South Africa, but without taking too much from them at any given time to cause them to rebel or fight." Does he still hold such views?

According to its own documents the ANC realises that when the time comes for the racial redistribution of wealth, there will inevitably be a reaction "because property relations are at the core of all social systems." It believes that "the tensions that decisive application to this objective will generate will require dexterity in tact and firmness in principle."

So, if the ANC proceeds with EWC it is likely to give the poisoned pill a dexterous sugar-coating. It will reassure concerned farmers and investors that its impact will not be too onerous. Perhaps the state will assume custodianship of all land - but give present occupants leasehold rights; or perhaps government will expropriate only land that exceeds certain arbitrary limits (5 000 ha?) or that is deemed to be under-used? Or, possibly, the ANC will conclude that it will be able to achieve its RET goals without amending the Constitution?

However, if EWC were to be adopted, even in diluted form, it would be a body blow to the already battered national accord on which the new South Africa was founded. The property clause was one of the most tightly negotiated compromises in the final constitution. Non-ANC parties conceded the principle of expropriation in the national interest - which included land reform. In return, the ANC accepted that equitable compensation would be paid for expropriated property. The property clause was at the heart of the constitutional agreement - and, as the ANC correctly observes, "property relations are at the core of all social systems".

EWC would also further undermine South Africa's status as a non-racial country. It would be directed against citizens on the basis of their race; and together with RET would be intended to resolve what the ANC calls the "national grievance arising from colonialism and apartheid". All this would inevitably damage race relations.

What should the response of concerned South Africans be?

- They should have no illusions about the ANC's intentions. They should read and believe what the ANC says about RET.
- They should leave no-one in any doubt about the consequences of RET and EWC for agriculture, for the economy and for race relations. In particular, they should communicate their views to the Constitutional Review Committee.
- They should reject the racial stereotypes on which RET is based.



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- They should accept the need for land reform - and should support workable approaches - but on the premise that
 - farmers have legal title to the land they now hold;
 - land may be expropriated, but equitable compensation must be paid;
 - expropriation should be the last option after all other ways of redistributing land have been exhausted;
 - all citizens - including whites - have a right to own, buy and sell agricultural land.
- They should support the expansion of black property rights particularly through the registration of title deeds for the 7.5 million black home owners.
- They should accept President Ramaphosa's invitation to discuss EWC - but should be wary of any attempt at "dexterity in tact". They should judge him and the ANC solely on their actions - and not on their reassurances.
- Finally, they should oppose any dilution of property rights - or any attempt to amend section 25 - with all the powers and freedoms that the Constitution bestows on all citizens. The future of all South Africans depends on it.