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THE ANC'S DILEMMA WITH LAND REFORM AND EXPROPRIATION WITHOUT COMPENSATION (EWC)

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A first national dialogue on land reform took place at the end of March in Johannesburg at the request of the ANC members of the Parliamentary Review Committee. This was ostensibly an attempt by the Ramaphosa faction within the ANC to wrest ownership of the process from the EFF (and Zuma supporters), who had of late been setting the pace in the debate.

The pronouncements of ANC officials at the dialogue brought some interesting and important issues to light. A key issue is that of how the officially-documented Nasrec decision on land reform differs from that which was reported in the media after the elective conference.

While expropriation without compensation (EWC) would be one of the key mechanisms for land reform (as part of radical socio-economic transformation), it was emphasised that its implementation should ensure that *future investment in the economy is not undermined* (my emphasis), and that agricultural production and food security are not harmed. Implementation should also *not harm other sectors of the economy* (my emphasis). Further, there should be a focus on land owned by the State, especially abandoned, unused and underutilised land (not necessarily agricultural land). The conditions for EWC in the official Nasrec decision are clearly stronger than initially reported. They are even more powerful when compared with the hastily compiled, sloppily-worded amendment to the EFF parliamentary motion regarding the changes to section 25. This only makes mention of implementation which “increases agricultural production and improves food security”.

The outright confusion or muddling continued when Chairman Mantashe at the first national dialogue said that the conditions for EWC were not part of the Nasrec decision, but merely a caution. By comparison, Deputy Minister Jeremy Cronin (a self-confessed communist), delivered a passionate address at the dialogue, arguing that it was neither necessary or desirable to amend section 25. He described the Nasrec decision as a “round peg in a square hole”. Even a former leader of the ANC Youth League, Ronald Lamola, largely agreed with Cronin and warned against changing a section in the Bill of Rights. Incidentally, Cronin’s plea was clearly directed more towards his own comrades in the ANC than the rest of the audience. He had to convince *them*.

It is clear that there is a multiplicity of views within the party, and that not even Ramaphosa supporters speak with one voice about EWC. The big question then is why does the ANC entertain this view on EWC? Might this position be aimed at outsmarting the EFF at the 2019 polls? Or might it be a tactic to draw the EFF closer in the hope that the ANC’s support does not further diminish? By many accounts - based on exit polls, voter analysis and research of election results - large numbers of ANC supporters stayed away from the polls or voted for



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other parties in 2016 because of deep dissatisfaction with the ANC's handling of the culture of corruption and state capture under Zuma's watch, and not necessarily because the ANC was not radical enough on land reform.

Others view EWC as an inevitable outcome of the ANC's National Democratic Revolution, radical socio-economic transformation and an attempt to drive white South Africans out of the country. Elements of this may be true, but it does not explain why President Ramaphosa is asking for new investments on the one hand, and, on the other hand, pursuing EWC - it simply does not make economic sense. And that the Nasrec decision includes investment in the economy as a condition, confirms it.

The view of Dr Mathole Motshekga (a member of the Constitutional Review Committee) at the national dialogue may offer a different answer. Pre-1994, black South Africans had two chief legal limitations: lack of voting rights and lack of land. According to him, while the transition to a constitutional democracy in 1994 ensured full political and civil liberties for all South Africans, the land issue has not yet been "settled" and requires urgent attention. This is what President Ramaphosa refers to as the "original sin". This view does not take due regard of section 25 of the Constitution, and the mandate to the State to ensure just and equitable land reform through legislation and other measures. This mandate has not been actioned and EWC is now being punted as a means to an end, in more ways than one.

Reading the Report of the High Level Panel led by former President Kgalema Motlanthe, the blame for the lack of land reform is placed squarely on the ANC government's doorstep. Clearly, this vital constitutional mandate has not been met. The response of the ANC to this failure to act over the last 25 years? Instead of introspection and taking accountability for its failings, it has opened the door to an unnecessary and irresponsible proposed amendment to section 25 of the Constitution, with EWC as a mechanism for "solving" the land question. EWC has become, for some factions in the country, the political alpha and the omega - and through this, the ANC puts its whole political future at stake.

This may be a dangerous political strategy. To put all your eggs in the property basket of EWC, while the EFF is breathing over your shoulder, could have very negative consequences in 2019 and beyond. This is true especially if you read the Motlanthe Report, according to which, the officials who have to drive the land restitution process are at best, highly bureaucratic and, at worst, incompetent and even corrupt. EWC on a large scale will not happen quickly nor effectively. The dilemma for the ANC and President Ramaphosa is that they mounted the EFF-made tiger and now must ride it - without falling off and being gobbled up by disgruntled voters who believed the promises of rapid land reform.

The other side of this dilemma are the perceptions and fears of minorities. This group includes business people, organised agriculture, activist organisations and ordinary citizens. They welcomed Ramaphosa's election as ANC leader, and joined the rejoicing when he was inaugurated as President of the country. They want to make a contribution to a



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better South Africa, help alleviate poverty and inequality, produce food, create jobs, invest and help to grow the economy.

However, these South Africans hear worrying and ambiguous messages from the ANC leadership: the “original sin” of land dispossession must be corrected and the land returned to “our people”, black South Africans. This will be done without acknowledging and compensating for the title deeds and hard work on that land by the “others”. And the controversial Ambrosini quote attributed to a younger Cyril Ramaphosa does not help: that white people’s possessions will slowly be taken from them, akin to gradually heating the water in a frog’s container until the frog dies. As Ambrosini can no longer be asked about this, the President should perhaps once and for all offer clarity on this matter. This could eliminate a lot of negativity.

The differing perceptions of EWC among South Africans are a dual dilemma for the ANC leadership. If they fail the majority of their supporters, they could suffer at the polls. If they scare the minorities and business sector, the economy that has to create the jobs for the majority will struggle to get off the ground. EWC presents a catch-22 situation for the ANC.

What are principled and well-meaning South Africans to do? If one agrees that land reform (as encapsulated in section 25) is essential for greater equality and justice, but that EWC is not necessary nor desirable, there is no option other than to engage in dialogue with government. This can happen through the parliamentary consultation process or at sectoral level. It is clear from the Motlanthe Report that the first attempts to execute section 25’s mandate failed. In the interests of the country and all its people, it is our duty - and in our interest - to ensure that the second attempt is more successful and sustainable. It is in the ANC government’s interest that in this regard, they hear from *all* South Africans.

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