



FALSE HOPES IN SOUTH AFRICA

The call for expropriation without compensation

The ongoing discussion in South Africa for expropriation without compensation in order to allow for a radical land reform has nothing to do with agriculture at all. It is a symbol for the return of the country to its black people and an expression of frustration that 24 years after the end of apartheid, white privilege has not ended.

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After Cyril Ramaphosa took over the government from the corrupt regime of former President Zuma in February this year, South Africa seems to be on a good track. Having been elected by the African National Congress (ANC) with a marginal majority, Ramaphosa acted carefully, always being aware that the Zuma supporters are not giving up their hope to remove him. Despite this covered opposition within the ANC, he was able to change the personal in key ministries. Also the corrupt board members in public enterprises like the national airline SAA and the energy provider ESKOM were replaced with competent people. This sector of state owned enterprises has been the main source for corrupt dealings. The commission which investigates "State Capture" reveals day after day the extent of corruption and exposes the persons involved so that a repetition of such transactions is unlikely.

Despite these positive developments, South Africa's economy is not progressing. The latest OECD report from September this year found that the country was the only one in recession among the more than 30 economies the organisation tracks. South Africa is performing the worst among its peers, the so-called emerging economies.

Ramaphosa's fragile position in the ANC already creates uncertainty for investors, but more so the ongoing debate about land reform and expropriation without compensation (EWC). Ramaphosa and the ANC propose to change the relevant Article 25 in the Constitution despite the fact that the constitution already allows for the expropriation of property by the state for public interest purposes. Economists warn that there is a fear amongst local as well as foreign investors that this could not only concern land, but property in general including intellectual property. They warn that in such a political environment the country would be unable to attract investment and to create the necessary jobs.

Ramaphosa claims that EWC is necessary to correct the injustice created by colonialism and apartheid. Ramaphosa has been an acknowledged trade union leader and a successful businessman before he took over the presidency of the country. Observers believe he must be well aware which damage this discussion does to the economy. He must also be aware that land reform will do little to create jobs for the unemployed in the growing urban areas of the country. Is he proposing EWC against his own conviction? The reading is that he is under pressure from the left wing and from Zuma supporters of the ANC to follow this path and that he tries to stop the success of the Economic Freedom Fighters (EFF) who have won over 6% at the last elections with the populist slogan: "Give us our land back!" With this issue Ramaphosa is also driving the main opposition party, the Democratic Alliance (DA) into a corner. The DA supports a liberal market economy and is elected mostly by coloureds and whites. Its opposition to EWC may create the impression with many blacks that the party is defending white privileges and that they should not vote for the DA. The reading is further that Ramaphosa, once elected at the national elections next year, is then strong enough to backtrack on the issue. In his speeches he promises that the implementation will be done in a manner that does not undermine the economy, agricultural production or food security.

Land Distribution in South Africa¹

67%: commercial agricultural land with title deeds of which 72% is owned by whites. 13% is declared arable, rest is arid or semi-arid

15%: 'black' communal land, former homelands, state owned, tenure rights based on customary laws

10%: other state land of which 7% are conservation areas (national parks)

8%: urban areas of which 2% are metros

The ANC's failure in the agricultural sector was highlighted during the consultative process for the proposed change of Article 25 of the Constitution. The Land and Accountability Research Centre at the University of Cape Town argues against constitutional amendments because existing clauses are sufficient for an agricultural reform programme if implemented properly. The ANC government has given little attention to land reform. At present the budget for it is at an all-time low at less than 0.4% of the national budget with less than 0.1% set aside for land distribution. The target of the ANC after having taken over the government in 1994 had been that by 1999 30% of white agricultural land to be transferred to black people. But by 2004 only 3% and by 2013 only 6.5% were transferred.²

The low transferal rate would have allowed for time and concentrated efforts on the side of the government to make restitution and land reform a success. But the overall assessment is that 70% to 90% of land reform projects in South Africa failed. Most beneficiaries remain poor even 17 years after their land was returned to them and are unable to generate a livelihood from agriculture. They depend on state social grants for survival. The reason is inadequate post-settlement support, lack of skills, poor planning and infighting within communities.³

The ANC's rural policy did little to improve the situation of the population in communal lands. Zuma's administration strengthened rural chiefs in order to gain their support during elections. Subsequently power over rural land has become more and more concentrated in the hands of local chiefs often overriding customary laws and traditions. Some communities for example are legally recipients of substantial revenues from mining which, however, are controlled and distributed by local chiefs often in collusion with the state and mining companies so that mine villages remain poor with high unemployment rates.⁴

Zulu King Goodwill Zwelithini controls almost one third of all land in Kwa-Zulu Natal through the Ingonyama Trust. A high level panel led by former President Kgalema Motlanthe recommended that the act be repealed which created the trust just before the first

¹ Institute for Poverty, Land and Agrarian Studies: The Distribution of Land in South Africa

² Marelise van der Merwe: *Promised Land: Grim truth about 'redistributed' land failures told in Parliament* in Daily Maverick, 16.03.2018

³ Mzingaye Brilliant Xaba and Monty J. Roodt: *South Africa's land reform efforts lack a focus on struggling farmers* in The Conversation, 05.12.2016

⁴ Sonwabile Mnwana: *Why giving South Africa's chief more power adds to land dispossession* in The Conversation, 04.04.2018

democratic elections in April 1994. The panel reported that there was “little evidence” that the trust’s “very substantial reserves” had been used “for the benefit of communities or their material well-being”. Observers criticise the policy of the trust to convince residents to trade in their PTOs (Permission to Occupy) for 40-years leases with 10% annual increase in rent. Tenants would be required to fence their property within 6 months and can be expelled if rent is not paid. One can expect that many will fail to fulfil these requirements and would thus lose their property rights.

Currently residents in communal land have PTO rights which would not be accepted by financial institutions as collateral. The trust claims that lease agreements would. But the head of the legal unit of the Department of Land Reform, Sello Ramasala, claims that a PTO is a stronger right than the lease agreement and that the department’s position is that informal land rights should be upgraded to full ownership.⁵

The government failed to support new black farmers sufficiently and has no consistent policy on land reform. There is no law defining who should get farming land, how it should be used, identified or acquired. The lack of legal definition contributes to “elite capture” as well as to a lack of accountability and transparency (connected politicians become preferential treatment and become ‘hobby’ farmers). As far as communal land in the former homelands is concerned the government lacks vision and co-ordinated efforts to strengthen traditional tenure and to change it to formal property rights where possible. On the contrary, the support of the ANC for traditional leaders contributed to covert dispossessions.

Admitting, land reform is a very difficult process to plan and to implement. Very few countries succeeded, mostly in Asia like for example South Korea.⁶ South Africa’s situation is aggravated by the legacy of apartheid with traditional homelands where completely different customary laws rule the use of agricultural land. Nobody who has the future well-being of South Africa in mind would deny that the injustice of the past needs to be corrected by special interventions in favour of the black population. Black Economic Empowerment, Affirmative Action and Land Restitution are the three key programmes which are supposed to achieve this. They were only partly successful. The call for EWC is very popular despite the fact that only 1% of black respondents in a survey said that ‘more land reform’ was the best way to improve their lives⁷. This is because for most South Africans the call “Give us our land back” has nothing to do with agriculture at all⁸. It is a symbol for the return of the country to its (black) people and an expression of frustration that 24 years after the end of apartheid white privilege has not ended.

The call for radical change under the banner of “land” comes not surprisingly at a time when the South African economy is in decline with high unemployment rates and when a majority of young people is without any perspective for a secure future with work. South Africa never

⁵ Rebecca Davis: *Ingonyama Trust issue could be the real fireball of land reform* in Daily Maverick, 08.03.2018

⁶ For a wider view on land reform in Southern Africa see: Arnold Wehmhoerner: *Demystify Land Reform in Southern Africa!* www.feps-europe.eu, June 2011

⁷ Anthea Jeffery: *EWC: A lurch towards disaster* in www.politicsweb.co.za, 05.03.2018

⁸ Steven Friedman: *Land debate in SA is about dignity and equality – not the constitution* in The Conversation, 05.03.2018

fully recovered from the global economic crisis of 2008 and the GDP growth rates of around 1% to 2% over the last years were well below the 5% which is required to absorb newcomers to the labour market. At a time when even developed countries register a growing gap between the rich and the poor South Africa not unexpectedly failed to close the huge backlog of injustice created by apartheid. Certainly the country could have done better if it would not have been in the grip of incompetent and corrupt elites under the Zuma administration for seven years. But not everything can be blamed on Zuma - ultimately the ANC is responsible.

Ramaphosa's tactic to support EWC implies the danger of a fundamental change in post-apartheid South Africa away from the principle in the Freedom Charter of the ANC that "South Africa belongs to all who live in it" to a rather racist approach to development. This criticism is voiced in a memorandum of the Foundation of former President Thabo Mbeki. Zuma's former Finance Minister Malusi Gigaba rejects the Foundation's "pamphlet" and suggests that it focuses on "minority fears" (whites) instead of legitimate "majority grievances" (blacks). For Gigaba land reform is just a vehicle for the restoration of the *status ante quo*. He wants that first the land has to be given back and that then will be decided who has which rights while the Foundation maintains that the process itself must be democratic and secure inclusive development.⁹

The failure of land reform in South Africa for the last 24 years confirms the fears of the Mbeki Foundation that EWC will not be the miracle recipe for uplifting the rural population out of poverty. But Ramaphosa instead opportunistically just follows the slogans of the radical wing of the ANC, certainly also under the pressure of the populist EFF, instead of stimulating a discussion in the ANC with the aim to re-confirm the basic principles of the party as laid down in the Freedom Charter. 24 years of ANC government have not brought the changes the black population was hoping for. That in such a situation the call for radical solutions finds many supporters is not surprising. The task of a responsible party leadership is at such times to guide the discussion and to set red lines. Nonetheless, this is at present difficult in the ANC where a large part of its leaders uses radicalisation rhetoric to protect their vested interests.

The myth "land" is going to dominate politics in South Africa for the next months until the elections in 2019. Most probably Ramaphosa will be re-elected and his position in the ANC be strengthened. But it is unlikely that he will be able to stop the expropriation discussion and to turn down the high expectations the population connects with it.

⁹ Andries du Toit: *Gigaba twists Mbeki's land arguments to discredit* in BizNews.com, 18.10.2018