



EFF STATEMENT ON THE ADOPTION OF THE CONSTITUTION EIGHTEENTH AMENDMENT BILL BY THE AD HOC COMMITTEE ESTABLISHED TO AMEND SECTION 25 OF THE CONSTITUTION.

Wednesday, 08 September 2021

Today, Parliament's Ad Hoc Committee to Initiate Legislation Amending Section 25 of the Constitution adopted its report on the amendment of Section 25 of the Constitution. This is a culmination of the work initiated by the motion tabled by the Economic Freedom Fighters in February 2018, which called for the following:

- i. review and amend section 25 of the Constitution to make it possible for the state to expropriate land in the public interest without compensation, and in the process conduct public hearings to get the views of ordinary South Africans, policy-makers, civil society organisations and academics, about the necessity of, and mechanisms for expropriating land without compensation;
- ii. propose the necessary constitutional amendments with regards to the kind of future land tenure regime needed, taking into account the necessity of the State being a custodian of all South African land;

The EFF motion was adopted by parliament, and the Joint Constitutional Review Committee was mandated to conduct extensive public hearings across the country to ascertain the necessity for, and mechanisms for expropriating land without compensation. The committee conducted public hearings across the country, and received over 600 000 written submissions, and conducted oral hearings with experts, lawyers, and civil society organisations. The countrywide public hearings expressed overwhelming support for expropriating land without compensation, as well as for the concept of state custodianship of land. The Constitutional Review Committee submitted its report to parliament in November 2018, and the report

endorsed the view held by millions of people, that the constitution needed to be amended to allow for expropriation of land without compensation.

An Ad Hoc Committee was then established in February 2019 to start the process of amending Section 25 of the Constitution. This committee could not complete its work before the national general election in 2019, and it was re-established after election in July 2019.

It became clear from the beginning that the Ad Hoc Committee was prepared to ignore the work done by the Constitutional Review Committee, and was also intent on ignoring the views of thousands of people who participated in the public hearings. The Eighteenth Constitution Amendment Bill that was sent for public comments in December 2019 made reference to a concept of “nil compensation”, which could only be determined by courts. Compensation for expropriation remained a default position of the draft Bill. While the reference to courts was removed after public consultations, compensation for expropriation remained a default position of the Bill.

The Bill also makes reference to a national legislation that must be developed to outline circumstances under which compensation for expropriation may be Nil. We all know that the Portfolio Committee on Public Works has already jumped the gun and is processing the Expropriation Bill, which makes reference to “Nil Compensation”, but only for very limited categories of land. According to this Expropriation Bill, land that may be expropriated with nil compensation is ; (i) abandoned land, (ii) land held for speculation purposes, (iii) land owned by the state, and (iv) land that poses health and safety risks to the people.

It is clear that there is no intention of using this legislative mechanism to fast track redistribution of land.

The Ad Hoc Committee completely ignored the second aspect of the original 2018 motion, which dealt with the question of state custodianship of the land. Instead, they are making meaningless references to “custodianship of certain land”, which makes no legal or political sense whatsoever. In adopting the report that it has now adopted, the ANC, through the Ad Hoc Committee, has shown a middle finger to the pain of

the dispossessed and their aspiration for repossessing their land. It has shown that their fake support for the 2018 motion was not genuine, but done in order to fool the majority to support them during the 2019 elections.

The EFF made numerous submissions to the Ad Hoc Committee on what should constitute a meaningful amendment to the Constitution. We submitted unapologetically that Section 25 (3) of the Constitution must reflect that property may be expropriated without compensation. We submitted that Section 25 (4) must reflect that land is common heritage of all the people of the country, under the custodianship of the State. We wanted Section 25 (5) to enjoin parliament to develop national legislation on state custodianship of the land.

All these were rejected by the ruling party, which opted for meaningless amendments to the Constitution. For this, African people, who constitute the landless and the dispossessed, must never forgive the ANC for betraying their hopes in the way that they have done. The ruling party has chosen sides between the dispossessor and the dispossessed, and they are firmly on the side of the dispossessor.

The EFF will vote against the Constitution Amendment Bill when it is tabled in parliament, and the Bill is unlikely to pass without our support. We will soon table alternative strategies through which our people must embark on to repossess their land, by whatever means necessary.

We call on real and genuine freedom fighters in all political formations, including those in the former liberation movement to caution their representatives against dividing the vote of black people when amending the Constitution, because this is a huge betrayal to those who fought in the wars of dispossession.

This represents the betrayal of the people, particularly the landless African majority. The former liberation movement has abandoned the cause for true freedom, because there can be no freedom without land. We will therefore continue to support radical and militant forms of land reform, including land occupation and repossession

from colonial settlers. There is nothing the former liberation movement and their
maters can do to stop African people from repossessing their land.

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 Economic Freedom Fighters

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