

International Coalition Letter



FREE MARKET FOUNDATION

In partnership with



A joint assertion on the critical importance of the protection of private property rights for a prosperous South Africa

We, the undersigned think tanks and advocacy organizations want to stand firmly against the South African government's proposed policy of "expropriation without compensation". A policy that violates the sanctity of private property rights and therefore the basic human rights of the South African people.

Against "Expropriation Without Compensation"

The South African government has introduced the draft Constitution Eighteenth Amendment Bill¹, which aims to amend section 25 of the South African Constitution to allow the government to expropriate private property without being required to pay compensation.

South Africa has an internationally acclaimed Constitution premised on freedom, human dignity, and equality. Its Bill of Rights has never been altered and the evidence shows that there is no reason to do so now.

Amending South Africa's Constitution is unnecessary and would be dangerous. Unnecessary because there already exists ample room for the South African government to engage in substantive and empowering land reform to undo the historical injustices committed by the Apartheid regime; and dangerous because it undermines the very institution the Amendment Bill ostensibly seeks to expand – ownership. Section 1(a) of the Constitution commits South Africa to "advancing human rights and freedoms", but the policy of expropriation without compensation undermines those very objectives².

Property Rights as Human Rights

Article 17 of the United Nations' Universal Declaration of Human Rights recognises the right to private property as a human right providing that "everyone has a right to own property alone as well as in association with others" and that "no one shall be arbitrarily deprived of his property"³.

The 2019 *International Property Rights Index* states, "Property rights are a decisive institution of the rule of law that maintains an unavoidable link with freedom. They are a complex legal institution that allows owners to use parts of nature and limit their use by others. They are a condition for the exercise of other rights and freedoms. Property rights are a fundamental counterbalance to the exercise of power because they limit the

¹ Constitution Eighteenth Amendment Bill. Available at: https://www.parliament.gov.za/storage/app/media/CommitteeNotices/2019/december/06-12-2019/Draft_advertised.pdf. Accessed: 18-02-2020

² The South African Constitution. Available at: <https://www.justice.gov.za/legislation/constitution/index.html>. Accessed: 18-02-2020

³ Universal Declaration of Human Rights. Available at: <https://www.un.org/en/universal-declaration-human-rights/>. Accessed: 18-02-2020

power of the State and are fundamental for productive transformation in the knowledge society. In short, property rights are an essential element for a free society based on the foundation of citizenship to control their own lives and build their own destiny”⁴.

Without the requirement to pay compensation when property is expropriated, a significant safeguard against arbitrary exercise of government power is removed, and the incentives that ownership generates – investment, development, and the human dignity of the owner, are undermined. It furthermore sets a dangerous precedent which would allow future governments to amend away entrenched rights in the Bill of Rights on the back of passing political expedencies.

Up to now, South Africans were certain that if their property should be expropriated, compensation would need to be paid. This allowed them the freedom to invest in and develop their property. It allowed foreigners, too, to invest in the South African economy without fear of being treated unfairly. Should the Amendment Bill be adopted, however, this will change, because no longer will compensation be strictly necessary, but will be entirely up to the whims of the South African Parliament.

The outcome of this erosion is entirely predictable – South Africa’s citizens will experience a material decline in their overall wealth, health, and wellbeing. In *The Road to Serfdom*, a political treatise, Friedrich Hayek makes the case for private property: “The system of private property is the most important guaranty of freedom not only for those who own property, but scarcely less for those who do not.” He continues, “It is only because the control of the means of production is divided among many people acting independently that nobody has complete power over us, that we as individuals can decide what to do with ourselves. If all the means of production were vested in a single hand, whether it be nominally that of ‘society’ as a whole or that of a dictator, whoever exercises this control has complete power over us”⁵.

The Dangerous Precedent of Zimbabwe’s “Expropriation Without Compensation”

It might now be regarded as clichéd to point to Zimbabwe when discussing South Africa’s land reform initiatives, but the validity of doing so remains unchanged. After attaining majority rule in 1980, the Zimbabwean economy entered a period of prosperity, with real economic growth for the period 1980-81 exceeding 20%. Agricultural production expanded during the decade. Economic growth averaged approximately 4.5% between 1980 and 1990 – a respectable number.⁶

This suddenly changed when unaffordable political promises made in 1997 could not be met.⁷ In answer to this inability, the government sought to meet those promises through other means: the redistribution of land.⁸ As a result of its policy of expropriation of private property without compensation, the Zimbabwean economy contracted by 40%⁹ and inflation shot to 66,000%¹⁰ in the first years. Later, hyperinflation would reach billions of percentage points¹¹. The per capita GDP declined precipitously by 40% and agricultural production by 51%¹². This was not due to sanctions or drought, but to an economic environment that no longer guaranteed security of investments or property.

⁴ International Property Rights Index, 2019. Available at: <https://internationalpropertyrightsindex.org/>. Accessed: 18-02-2020

⁵ Hayek, F.A. (1944) *The Road to Serfdom*, Mises Institute. Available at: <https://mises.org/library/road-serfdom-0>. Accessed: 18-02-2020

⁶ Steenkamp, Philip John; Rodney Dobell (1994). *Public Management in a Borderless Economy*. p. 664.

⁷ Koech, Janet (2011). [Hyperinflation in Zimbabwe](#) (PDF) (Report). Federal Reserve Bank of Dallas.

⁸ Fisher, J L (2010). *Pioneers, settlers, aliens, exiles: the decolonisation of white identity in Zimbabwe*. Canberra: ANU E Press. pp. 159–165. ISBN 978-1-921666-14-8.

⁹ Global Security – Zimbabwe Economy. Available at: <https://www.globalsecurity.org/military/world/africa/zw-economy.htm>. Accessed: 18-02-2020

¹⁰ Financial Times – Zimbabwe inflation exceeds 66,000%. Available at: <https://www.ft.com/content/cc641c6a-db20-11dc-9fdd-0000779fd2ac> Accessed: 18-02-2020

¹¹ Muronzi, C. (2019) IMF: Zimbabwe has the highest inflation rate in the world. Available at: <https://www.aljazeera.com/ajimpact/imf-zimbabwe-highest-inflation-rate-world-190927004536305.html>. Accessed 18-02-2020

¹² Casey, K (2016) *The Coming Collapse of America*

A similar phenomenon occurred in Venezuela. More than 15% of the Venezuelan population have fled the land of their birth¹³. Venezuelans have had to take to eating rats, pets, and animals stolen from zoos¹⁴. Six or more Venezuelan children die every day due to malnutrition¹⁵. This all started after Hugo Chavez's economic reforms, which notably included expropriation without compensation, were implemented.

What is often missed in the discourse around expropriation without compensation is that the poorest South Africans will be hardest hit by its negative consequences, something clearly evident in both Zimbabwe and Venezuela in recent years. Wealthy South Africans, even if the Amendment Bill is adopted, still have access to the courts and will fight every attempted expropriation-without-compensation for many years, using the country's best litigators. If they fail, they will, and many have already started to, leave South Africa. The poor have neither of these luxuries. Already the destitute live at the whims of petty officials whose decisions cannot be easily challenged. If the constitutional right to compensation is done away with, the little protection that the poor currently have for their property will be even further reduced. This we cannot abide a mere 26 years after the oppressive Apartheid regime was ousted.

Conclusion

Therefore, the undersigned members of the Property Rights Alliance call on policymakers in South Africa and around the world to protect and promote the sanctity of private property rights and strongly condemn the South African government's intention to enact a policy that will expropriate private property without compensation. The Constitution Eighteenth Amendment Bill must be abandoned immediately.

¹³ Martin, S. (2018) Venezuela Has Lost 13% of its Population in the Mass Exodus from Socialism. Available at: <https://panampost.com/sabrina-martin/2018/10/01/venezuela-has-lost-13-of-its-population-in-the-mass-exodus-from-socialism/>. Accessed: 18-02-2020

¹⁴ Tancred, A. (2018). Zoos are forced to slaughter animals to feed others in Venezuela, where bone-thin pumas have become the face of the crisis. Available at: <https://www.dailymail.co.uk/news/article-5449023/Venezuelans-eat-rats-dogs-economy-nosedives.html>. Accessed 18-02-2020

¹⁵ Save the children: Help save children in Venezuela. Available at: <https://www.savethechildren.org/us/what-we-do/where-we-work/latin-america/Venezuela>. Accessed: 18-02-2020



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