

Press Release

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The IRR looks to President Zuma to rectify the failings on the Expropriation Bill

The IRR (Institute of Race Relations) has today petitioned President Jacob Zuma not to give his assent to the Expropriation Bill of 2015 (the Bill), but rather to refer it back to the National Assembly for reconsideration.

Many of the clauses in the Bill, as yesterday approved by the National Assembly, are inconsistent with the Constitution. There were also serious procedural shortcomings in the Bill's passage through the National Council of Provinces – even though the Constitutional Court has previously stressed the need for proper procedural compliance in adopting legislation.

Proper public consultation on the Bill has also been lacking, despite the constitutional requirement for this.

Under Section 79(1) of the Constitution, the president has an obligation, 'if he has reservations about the constitutionality of a bill', to refer it back to the National Assembly for reconsideration, rather than sign it into law.

Given the various ways in which the Bill contradicts the Constitution, Parliament should never have adopted the measure in its current form. It should also have ensured full public participation and proper procedural compliance. It now falls to President Zuma to rectify these failings.

In reconsidering the Bill, the National Assembly should amend it to bring its flawed definition of expropriation into line with the Constitution, require prior court confirmation that a proposed expropriation is indeed constitutional, and allow those expropriated to claim for direct losses resulting from an expropriation, such as moving costs.

Private property rights to land, houses, and other assets are vital to democracy, development, upward mobility, and rising prosperity for all. That is why the racially discriminatory laws that earlier barred black South Africans from owning land and many other assets were so profoundly unjust.

Since these restrictions began to crumble in 1975 – and were finally abolished by the National Party government in 1991 – black ownership of houses, land, and other assets has grown exponentially. To speed up this process, South Africa needs an annual growth rate of 7% of gross domestic product (GDP) – which would double the size of the economy every ten years – coupled with an upsurge in investment and employment.

However, these advances will not be possible if the Bill is enacted in its current form. Worse still, the Bill is also likely to reverse the gains that have already been made in extending the benefits of private property ownership to millions of black South Africans.

A better bill – one which allows expropriation in appropriate circumstances but also has constitutionally-compliant safeguards against any abuse of this power – can easily be crafted. The IRR has petitioned President Zuma to help bring this about.

Ends.
