

Press Release

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South African Institute of Race Relations
The power of ideas

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The New Expropriation Bill: Unconstitutional and Economically Disastrous

The Expropriation Bill is back – and it is just as unconstitutional and economically disastrous as its predecessors of 2008 and 2013, says the IRR (Institute of Race Relations) in an article published today in its *@Liberty* policy bulletin.

The Expropriation Bill of 2015 (the Bill) again gives the State the power to take ownership and possession of property of virtually any kind by notice to the owner – and without a prior court order confirming the validity of the expropriation.

However, this contradicts both common law protections for property rights and the Constitution, which lays down a number of requirements which have to be met before an expropriation can be lawful.

“The Bill also puts great pressure on expropriated owners to accept whatever amount of compensation the State might offer,” says Dr Anthea Jeffery, Head of Policy Research at the IRR. “This time around, the Bill does so by saying that owners will be deemed to have accepted these amounts unless they sue for more within two months. However, given the costs of litigation, most people simply cannot risk this.”

Adds Dr Jeffery: “Many commentators have long assumed that the Expropriation Bill will apply only to commercial farmers, but this is an illusion. Others may think the risk of expropriation applies solely to white South Africans, but this too is a fallacy.

“The recent gazetting of a land claim over much of Pretoria illustrates the point. Chief Victor Lekhuleni’s claim to some 25 000 hectares includes not only farms but also businesses, shopping centres, residential areas, schools, hospitals, and the whole of Mamelodi. In this instance, Mr Lekhuleni is willing to negotiate leases with farm owners and others once his claim has been confirmed. However, other claimants might demand the land itself – which the State will then be able to acquire on the cheap using its new powers under the Bill.

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“The State expects some 379 000 new claims to be lodged in the re-opened claims process, which is to stay open until June 2019. Vast swathes of land could be claimed within this period. In addition, the Bill empowers all organs of state to expropriate property of virtually every kind – from homes to factories and other businesses – without these state entities having to wait for the trigger of a land claim.

“Overall, the Bill is a draconian measure that makes it quick and cheap for all state entities to take from farmers, miners, firms, and ordinary people their most important assets: often their sole assets, built up over a lifetime of endeavour.

“The predictable economic effects of the Bill will be to deter investment, restrict economic growth, worsen unemployment, and deepen destitution. Though most governments would want to avoid such outcomes, here the ruling party and its communist allies are intent on building up state power and increasing state ownership as part of their ideological commitment to a national democratic revolution with socialist objectives.”

See [IRR TV](#) for an interview with Dr. Anthea Jeffery on the Expropriation Bill.

Ends.
