



“Changing Section 25 of South Africa’s Constitution to Enable Expropriation Without Compensation Akin to the Zimbabweisation of South Africa”. Presentation by Rejoice Ngwenya, Director, COMALISO, at the CYP SA Youth Conference, Sunday 16 December, Kwasizabantu Mission Auditorium, Kwazulu-Natal, South Africa.

INTRODUCTION – *Beyond Common Narratives, Partisan Innuendos and Racial Nuances*

Today I am among friends. CYP SA believes in nation building and like me, strives towards a better future for all. Before year 2000, we Zimbabweans, like you South Africans, had so much hope for the future. Millions of our young people graduated from institutions of higher learning full of hope for good jobs, good living, happiness and prosperity. Today, there is a whole generation of young Zimbabweans – lost, hopelessly poor and frustrated. Only because of us, the post-nationalist adults, who took the wrong decision that, offended the world by expropriating private farms and companies without compensation. The free world reacted with vengeance - abandoning us as our local currency went up in flames. Millions of young Zimbabweans fled to South Africa in search of jobs since factories were closed. Schools ran out of books and teachers. Hospitals ran out of drugs, doctors, electricity and running water. Shops ran out of groceries as petrol stations dried up. Even our all-weather friend, China, could only do as much as the West punished the Robert Mugabe regime with biting sanctions. This my friends, is my Zimbabwe.

Don’t get me wrong. I am Zimbabwean, born in racist colonial Rhodesia. It is impossible for me not to be angry about colonialism. My parents’ human rights and dignity were violated. I would have failed you, the young people of this Great Nation, if I did not share bitterness with black South Africans. As a liberal, I am for land reform, restitution and justice – but these should not be achieved through violence and violation of human rights. We modern-day Africans are more civilised than Jan van Riebeck and Cecil John Rhodes. We can tell right from wrong. It is simple to shout,

“Let us take that land because the white man did this and that to us!” This is a lazy narrative. Real work comes with asking the hard questions about land.

MY REALITY CHECK – *dealing with the hard, relevant questions*

In presenting to you my country’s experience vis-à-vis section 25 of your country’s constitution, I implore you to deal with the following questions:

- Are you aware that ‘property’ as in S25 (b) refers to more than just land?
- Are you prepared for the international financial, economic and political backlash on violating private property rights?
- Do you have the necessary skills and technical support to manage newly acquired property?
- Are you going to sustain the momentum of production without endangering food security of your country?
- If South Africa is denied access to international credit, will you be able to fulfil your social and economic development objectives?
- How does expropriation affect South Africa’s relations with its neighbours?
- Is expropriation about equal access to resources or simply an opportunity to enrich a few politicians?

If we had carefully applied our minds to these questions in 2000, we would have avoided the disaster that has befallen our country. If South Africans believe in values and virtues of constitutionalism, is expropriation true justice if it causes so much despair to fellow citizens? Yes, they are white. They own farms and factories. They were once economically and socially privileged. They are descendants of Europeans, but that does not make them less South African. As one philosopher put it: “To apply one directly, and allow every man to seize by violence what he judges to be fit for him, wou’d destroy society...”¹ Ten years from now, would you want your country to be impoverished and worn out like Zimbabwe?

IT AIN’T BROKE – *so why fix it?*

Before year 2000, Dictator Robert Mugabe had all the time to change property clauses of the Lancaster House Agreement. He understood importance of preserving industrial and agricultural productivity through respect of property. As we Zimbabweans began to assert our political rights, we formed a strong Movement for Democratic Change (MDC) opposition party that shook the political status quo. Our property clause was not broken, so it was not mended. When government lost the Constitutional Referendum, all hell broke loose. Mugabe, like Hitler, picked on the minority white farming community and unleashed land invasion horror on them as punishment for supporting opposition. I argue vehemently that both the ANC and EFF are facing crucial elections in 2019. They have concocted expropriation to attract sympathy. They know what happened to Zimbabwe, but care only about winning elections.

Section 25 (2) (a) already allows for expropriation of property. So why change it? For me, and no doubt external observers, the beauty of South Africa's constitution is its ability to protect the interests of minority groups, languages, culture. South Africans need to be cautious and consider the negative after-shocks of expropriation. In 1983, writers like W.H. Thomas foresaw the need for gradual reform: "Alternatively, a more gradualist reform might be effected by merely allowing blacks to enter existing property and land markets...the principle of income and wealth redistribution also has to be accepted as an important constitutional element in any future system." But, he continues, "it is equally important to recognise the limits of such redistribution if the productive capacity of the economy is not to be seriously impaired."ⁱⁱ

Julius Nyerere cautioned Mugabe after independence to treat Zimbabwe like a jewel. He had inherited one of the most industrialised nations in Africa. However, a single stroke of constitutional reform madness has turn my country into desolation.

AGE – *is something, not just a number!*

I am angry about the desolation that has afflicted Zimbabwe's young people. According to Misheck Gondo, director of National Association of Youth Organisations, "...90% of youths in the country are unemployed, with universities and colleges churning out graduates that fail to secure jobs."ⁱⁱⁱ Statistics South Africa adds: "... the unemployment rate among young people aged 15–34 was 38,2%, implying that more

than one in every three young people in the labour force did not have a job in the first quarter of 2018.”^{iv} Lloyd Gumbo, a Zanu PF youth also confirmed: “Actually that issue about economic empowerment and land reform has not benefitted youths like myself, but what we have realized now is that it has benefitted only the politically-connected and senior Zanu PF officials leaving out the key people that should have benefitted.”^v

An organisation called Human Rights Watch were clearer.^{vi} “In June 2000, the National Employment Council for the agricultural industry ... published a report noting that, as a result of the farm occupations, at least 3,000 farm workers had been displaced from their homes, twenty-six killed, 1,600 assaulted, and eleven raped. The majority (47.2 percent) were supporters of the MDC; nearly as many (43.6 percent) had no political affiliation; a few (4.7 percent) were ZANU-PF supporters.—Farm workers have continued to be the victims of violence during farm occupations: the Zimbabwe Human Rights NGO Forum documented the deaths of four farm workers (including security guards and game scouts) and numerous assaults during 2001....”

These figures have nothing to do with land ownership by the white man. If Mugabe’s expropriation was successful, why are millions of young Zimbabweans still unemployed? He told the world he took back the land to empower his people. So tell me South Africa, what makes you think your expropriation will succeed? The results of property violations are the same – more unemployment for youths and more wealth for the few politicians. Some people sympathetic with ZANU.P like Ian Scoones remain stuck in self-delusion. He says, “Rather than their peasant parents, enslaved to a life of drudgery in agriculture, the new generation can make agriculture a business, and unleash the economic value of land and agriculture, especially in areas where land is abundant.”^{vii} In South Africa, 60% of the population lives in urban areas. Are you young people interested and even capable of being successful commercial farmers? Maybe.

According to a magazine called The Conversation: “In the first decade after independence, agriculture provided 45% of the country’s exports, 60% of the raw materials used by Zimbabwean industry, and 70% of employment for the population. By 2004, the government-controlled newspaper indicated that farmers only used a quarter of the arable land in the country that season. Agricultural production

plummeted and the country went from a net food exporter to a net importer. Zimbabwe continues to face extreme food shortages which have only been exacerbated by drought. Today, about 5 million of the country's population of 14 million are estimated to be in need of food assistance. " viii

PLAN B – *is there an alternative to expropriation without compensation?*

South Africa, just like my country Zimbabwe, is a victim of colonialism. We are all angry about what Jan van Riebeck and Cecil John Rhodes did to our ancestors. However, because you and I are now more civilised than colonialists were, you and I understand rule of law and justice. Let us not be like them. Are we prepared to set off another cycle of land revenge by future generations? The Khoisan insist the Zulu Kingdom dispossessed them of their land. The Shona people of Zimbabwe have a strong case about King Mzilikazi displacing the Munhumutapa Kingdom. Revenge is not justice. Modern nations emerge from mutual respect of each other. We cannot change the past but the future. ANC and EFF are motivated not by the desire to empower black South Africans but to win more votes in 2019. Even if they manage to change Section 25, sustaining agriculture for millions of people is not easy.

According to Clever Mumbengegwi,^{ix} it is a fallacy to assume that agriculture is sustainable without subsidies, low interest loans and low wages. COSATU and other trade unions always have their finger on the protest trigger. Will the new crop of black commercial farmers stem the tide of high wage demands? Assuming South Africans remain arrogant and change Section 25 of their Constitution, will this permanently solve the land issue? Mumbengegwi cautions: "The logical conclusion seems to be that, no matter how impressive or extensive the programme in future, resettlement alone can never be a lasting solution to the land question."

Philosopher John Locke would have put it in modern English. The supremacy and strength of government is not in its ability to appropriate another man's property without his consent, but to protect it using law. "For I have truly no property in that, which another can by right take by right from me, when he pleases, against my consent."^x As David Hume, points out peace and security are founded on the observance of stability of possession, transfer of property by consent and what he

calls 'the performance of the promises'. Ayn Rand was clear on why property rights are human rights: "... a violation of one's property rights is an expression of force against the individual himself. In a very real sense, to steal, to defraud, or to expropriate another's property is to initiate an act of violence against the person."^{xi}

My fellow (South) Africans, observe the disaster that befell my country Zimbabwe caused by reckless constitutional reform. Your country is renowned for one of the best constitutions in the world. Keep it that way. Robert Vivian reminds us: "A constitutional democracy can only be a constitutional democracy if it functions in terms of the Rule of Law" Of course, excising "rule of law" from the constitution does not mean the Rule of Law is not violated. It simply means the letter of the South African Constitution is not breached. The Rule of Law itself is still violated."^{xii} **Besides:** "It is a criminal act to take property away from someone which legally is his possession, whilst they are not guilty of anything unlawful."^{xiii}

My appeal to South Africans: do not change Section 25 of your constitution. Remain an integral part of the civilised world by respecting property rights.

Some references to the above text

ⁱ David Hume in his essay 'Justice and Property' in 'The Libertarian Reader', Ed, Boaz, D. The Free Press, 1997

ⁱⁱ Thomas, W.H. 'Constitutional restructuring and the satisfaction of economic needs', Political Alternatives for Southern Africa, Principles and Perspectives, Van Vuuren & Kriek, Butterworth Publishers, 1983.)

ⁱⁱⁱ <https://www.newsday.co.zw/2016/08/90-zim-youths-unemployed/>

^{iv} <http://www.statssa.gov.za/>

^v <https://www.voazimbabwe.com/a/zimbabwe-land-issue-unresolved-almost-36-years-after-independence/3282747.html>

^{vi} <https://www.hrw.org/reports/2002/zimbabwe/ZimLand0302-03.htm>

^{vii} <https://www.herald.co.zw/youths-and-agriculture-implications-for-post-land-reform-zimbabwe/>

^{viii} : <https://theconversation.com/why-zimbabwe-has-failed-to-sate-the-yearning-for-land-and-to-fix-rural-hunger-69524>

^{ix} 'Continuity and Change in Agricultural Policy', Zimbabwe – the Political Economy of Transition 1980-1986, Codesria Books, 1987

^x Essay on 'Of Property and Government' in The Libertarian Reader, ed, Boaz, D. The Free Press, 1997

^{xi} Essay by Douglas J, Uyl D, Rasmussen D. Ayn Rand on Rights and Capitalism' in 'The Libertarian Reader, ed, Boaz, D. The Free Press, 1997'

^{xii} <https://www.cypsa.org.za/cck/expropriation-of-property-without-compensation-75-per-cent-required-to-change-the-constitution>

^{xiii} <https://www.cypsa.org.za/cck/exposing-the-truth-on-land-expropriation>