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On Land

This edition of *Focus* provides an overview of some of the themes concerning land, expropriation and usage which have been before the broader public for the last ten months. It does not in any way purport to be a comprehensive overview of the debates nor, does it seek to intervene in any way the issues which are currently being debated in Parliament.

Ever since the EFF stole a march on the ANC in reintroducing the idea of expropriation without compensation (EWC) earlier this year, following on from the ANC's resolution at their 54th Conference – so the EFF continually reminds us – it has set the pace of land reform in South Africa. This is unfortunate for a number of reasons, not least in that it has presented a very emasculated ANC driving or not, in this case, the policy agenda. Moreover, the actual policy debate has at best been vacuous. This has been compounded by the introduction of problematic theological concepts into the debate, and here the ANC is largely responsible for introducing notions of "original sin" into the public discourse, devoid of any understanding of what "original sin" actually is.

We have no doubt that the intention to alter an important provision of the Bill of Rights (section 25) will be met with a barrage of litigation. Some of it may be as quixotic as the litigation of Afriforum's which sought to interdict the process on procedural and review grounds, this never had a chance of succeeding. Nor are we clear about the next stages in this process, but we must be mindful of the fact that we are in the run up to a national election which will in all probability take place in early May 2019. Whether the governing party with its allies in this venture will be able to maintain a two thirds majority in order to effect the changes remains to be seen, but as Parliament rises on the 2nd of April 2019 it is unlikely that the current Parliament will effect the Constitutional changes. We trust that the President will have carefully listened to his Expert Advisory Panel on this matter.

Tom Lodge. A seasoned researcher and commentator on the South African polity begins our discussion about South African land reform. Lodge introduces a comparative dimension into our discussion with reflections on Kenyan and Zimbabwean efforts. He concludes with the observation that "within the existing framework of laws and regulations, much more could be achieved if the government wanted to really demonstrate its commitment to land reform".

Dyllon Nicholls and **Mira Menell Briel**, outline certain key reflections on the public consultation process. Their inevitable conclusion is that the process left much to be desired. For this writer, the Parliamentary process was also abusive.

Charles Simkins forcefully and persuasively highlights that the real issue of land reform in South Africa relates to the use of urban land. This is a summary of his more extensive work on urban land reform which was presented to the Constitutional Review Committee but which unfortunately sank without trace.



Michael Kahn provides an historical overview of just where we have come, and how important it is that we understand the role of state capture in the sorry situation we find ourselves. In effect, we may have arrived at the return of the Bantustans.

If Kahn has taken us back to the Bantustans, **Graham Dominy** has taken us straight into the Bantustans in his review of kings, chiefs and the complexity of land restitution. As befits an eminent historian and the former state archivist, he reminds us of the problems of continuity ... and how all is rotten with continuity. We conclude with a summary of the HSF's submission to the constitutional review committee.

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