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**NATIONAL COUNCIL OF PROVINCES**

**ORAL REPLY**

**QUESTION NUMBER:** 🟊**19 [CO124E]**

**INTERNAL QUESTION PAPER NO.: 06 (of 2021)**

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🟊**19. Mr T J Brauteseth (KwaZulu-Natal: DA) asked the Minister of Public Works and Infrastructure:**

***Balancing land redistribution and private property rights***

With reference to the recently completed submissions on the Expropriation Bill [B23-2020] (details furnished), what actions will she take to balance the need for land redistribution whilst safeguarding the legitimate property rights of private citizens in the country? **CO124E**

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**REPLY**

**The Minister of Public Works and Infrastructure:**

The Bill brings certainty to South Africans and investors because it clearly outlines how expropriation can be done and on what basis.

Expropriation is done all over the world, in the United States it is call “eminent domain” and expropriation is also done in New Zealand, the UK and many European countries and in Africa.

This existing Expropriation Act dates back to 1975. The Presidential Advisory Panel Report pointed out that it is “inconsistent with the Constitution”, and “the correction of this has been long-delayed”.

The Panel pointed out that the 1975 Act “undermines the constitutionally enshrined principles of lawful, procedurally fair and reasonable administrative justice”.

In terms of various existing laws, the President, at least seven National Ministers, all Provincial Premiers and all municipalities have powers of expropriation. What is needed is a law of general application that will ensure that any act of expropriation is in compliance with the Constitution of South Africa, 1996.

They will now have to exercise those powers in accordance with the constitutionally compliant new Expropriation Bill once it is enacted into law.

House Chairperson, since the Land Expropriation Bill was published in October 2020 and submitted to Parliament for further processing, material facts about the bill have been twisted and the truth has been distorted. The perpetuation of lies has become a consistent mechanism used by opponents of land reform.

People who twist logic and the meanings of words or otherwise twist logic to suit their needs, have lumped nil compensation and no compensation as tantamount to old style land grab.

This cannot be further from the truth. As described in the Expropriation Bill, there are rigorous procedures and processes to arrive at nil compensation and no compensation.

Nowhere does the bill talk about land grabs nor does it prescribe expropriation.

The Bill has been certified as Constitutional by the Chief State Law Advisor.

Expropriation is only one of the methods that may be used for the acquisition of land that could be used for land reform purposes.

Section 25 of the constitution provides a solid and clear foundation for the implementation of the law and states that “*property may be expropriated only in terms of law of general application for public purpose or in the public interest; and subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.”*

In terms ofSection 34 of the Constitution: “Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.”

It makes no sense that a democratic government will revert to apartheid style practises of taking homes or business premises away from people. Surely, no court would agree to this either.

The Expropriation Bill [B23-2020] sets out the procedures that the authorities must follow before and during expropriation, how compensation must be calculated and paid, and where and how decisions can be challenged.  It includes a mediation process, and it guarantees access to the courts as the final form of oversight and decision-making.

The Bill is now before Parliament and South Africans do have another opportunity to make inputs.