

Not seeing the wood for the trees

Of the nearly fifty submissions to the Parliament's Constitutional Review Committee, very few actually dealt succinctly with the issue under review. The question was a simple one. Was a review of the Constitution regarding Section 25 necessary to accommodate the proposal that land be acquired without compensation? Yes or no.



Right from the start, as has been the case with the EFF so many times, an opportunity was seized to make populist ground before the 2019 elections. Julius Malema and his cohorts seem to thoroughly understand how to upstage the ANC and President Ramaphosa in the parliamentary precinct, as they also did past president Zuma.

Some of the presentations on the need for a Section 25 change gave unwanted historical perspectives; some offered constitutional legal opinion for which the audience in this case was wrong; and many discussed the economy at length, which was not the subject matter.

Thoughtful input

Two really good submissions with excellent following debate have occurred so far in the in the various committee rooms that the Review Committee has worked in over the four days. Cas Coovadia of the Banking Association of South Africa (BASA) gave an enlightened presentation and took the time to answer questions from MPs in great depth, coupled with an understanding of the political environment that the banking world was confronted with.



As did Mike Brown of Nedbank who went straight to the point and gave a measured response as to exactly why any changes under Section 25 were unnecessary, dangerous and harmful to the economy insofar as any possibility of growth was concerned. For both presentations, one remained riveted to one's seat, getting a free lecture on economics and banking perspectives at the same time.



Emotive land issues

Their responses to populist and unpleasant remarks from both EFF and ANC MPs on the subject of redress for the past were handled with care and politeness, both showing no disdain for the populist overtones. For example, Dennis Dykes, Nedbank's Chief Economist, called upon by Mike Brown, quietly exploded the EFF argument that China and South Korea knew everything about land redistribution without compensation.

Dykes pointed out that China had gone from total state ownership of property in about 1978 and had liberalised with great consequences. As the private sector had gained some ownership of property, it had contributed up to 70% of total gross domestic product (GDP).

Any expropriation that took place in South Korea, meanwhile, was as a result of World War 2 and the subsequent invasion of land by foreign displaced Japanese land owners, Dykes said. These were very particular circumstances where small-scale farmers had to be supported.

In both cases, it was the inverse of what had been suggested by the EFF, but it also indicated that much of what the red berets were giving as facts was simply hot air.

Chalk and cheese

Business Unity performed quite well, Tanya Cohen, CEO, weighing in with the mantra expressed by most that the failure of land redistribution was as a result of a lack of will and a lack of implementation on the part of the state. She said that policy uncertainty and a lack of clarity, and legislation that was not fit for purpose, was having a detrimental impact on business's willingness to invest.



In contrast, AfriForum's Ernst Roets on day three and Sakeliga's Piet Roux on day four, really stirred the pot. Their presentations could have been termed to a certain extent racist and both gentlemen presented at great length their views on the inability of the ANC to achieve anything.



They also started a discussion on who started farming first, Sakeliga referring to expropriation without compensation as "confiscation" throughout his presentation and also in answering questions from MPs.

Both said that Parliament was posing the wrong question for debate, AfriForum even going so far as to mention the right to land as a result ownership by conquest was a norm. He stated that this was "a common practice amongst black tribes but not that common amongst white people, who later and also settled in SA".



Into the trenches

Such comments were like a red rag to a bull, with MPs across party lines stating that their presentations were both insulting, totally unconstructive and missed the point.

Regretfully, and probably as a result, the last two days were spent with populist commentary emerging from Ntombovuyo Mente, Nazier Paulsen and Josephine Mokwele of the EFF, Themba Godi of the PAC, and a certain amount of antagonism to presenters from Moloko Maila and Tsapane Mampuru of the ANC.



Steve Swart (ACDP), also a member of the Constitutional Review Committee, spent much of his time trying to reduce the tension of the meeting. It was a sad outcome from a process compromised right from the start by President Ramaphosa.

In a final meeting a draft report by a service provider called isiLumko of the public hearings held around the country and the 700,000 responses from the public was initially objected to by Adv. Glynnis Breytenbach on the basis that the qualifications for isiLumko to produce such a report and how they were appointed appeared doubtful. This will be looked at.



The report is not available to the public at the moment since it is merely a draft. Further meetings will finalise this.

Just a guess

From the debate surrounding the draft report so far, however, various remarks seem to indicate from remarks made that the public hearings were "overwhelmingly in favour" of amending the Constitution, whilst 65% of the written submissions and presentations made to Parliament were not in favour. This is not a referendum, however, and the Review Committee's report will be the final arbiter.

The fourth term of Parliament for 2018 is set down to take place between 9 October and 30 November, an eight-week session. The first term of 2019 is scheduled for 7 February until 26 March, another eight-week period and the Fifth Parliament comes to an end on 8 May 2019 with an election.

