

Upgraded Land Bill does not correct injustices of the past

By Annette Steyn MP – DA Shadow Minister of Agriculture, Land Reform and Rural Development

Chairperson

The reason for the debate today, is to rectify the wrongs of the past. In order for us to understand the land issue, we must understand the historical facts of land contestation in South Africa.

Most of us would agree that dispossession of land did not only happen on the battlefield but was also achieved by making laws that control movement and ownership of land for black South Africans. It is for this reason that the preamble to our Constitution starts with the following words:

*“We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity.”*

The Democratic Alliance wholeheartedly agrees with this preamble and we strive to work towards nation building and uniting all South Africans.

When we discuss land reform in South Africa, it is our task as law makers to ensure that we repeal all apartheid era laws and treat all our citizens as equal before the law.

In fact, section 25(6) and (9) of the Constitution of the Republic of South Africa places an obligation on Parliament to pass legislation that ensures that a person or community whose tenure is legally insecure as a result of past racially discriminatory laws or practices is entitled to tenure that is secure or comparable redress.

At first glance, the Upgrading of Land Tenure Rights Amendment Bill, which was necessitated by the orders of the Constitutional Court in the matters of *Rahube v Rahube* and *Herbert NO and Others v Senqu Municipality and Others*, sounded like we will be moving towards correcting the injustices of the past and creating a just future.

But chairperson, this Bill is only a plaster on a deep wound. It will not assist millions of South Africans who have borne the brunt of apartheid’s racially discriminatory laws that continue to place them at the risk of exploitation and dispossession, as communal land dwellers have weak legal claims to the land that they inhabit.

We just have to look at the many court cases where rural communities are taking government to court in order to get control of what happens to the land they live on.

This battle is not only in courts but has led to community members being threatened and killed if they don’t “toe the line”.

I would like to honour the memory of brave women like Fikile Ntshangase, a vocal opponent of the expansion of the Tendele Coal Mine in Somkhele in KwaZulu-Natal, who was gunned down on 22 October 2020 in her home.

And Sikhosiphe “Bazooka” Radebe, the former chairperson of the Amadiba Crisis Committee – the organisation leading opposition to the mining of Xolobeni.

When we read about cases like this, I shudder to think what will happen if we weaken land rights by changing section 25 of the Constitution.

We need a total review of all the disparate pieces of legislation that have only succeeded in creating more barriers for equitable and transparent access to land. We must scrap the excessively fragmented land administration system in South Africa and come up with something that would truly provide equality to all.

The Bill before the house today does not achieve this.

The DA will not support the bill.