

Amendment of Section 25 of The Constitution

The **Joint Constitutional Review Committee (Joint CRC)** conducted public hearings in all the provinces of South Africa in 2018. The sole purpose of these extensive public engagements was to get public inputs on the **Amendment of Section 25 of the Constitution**.

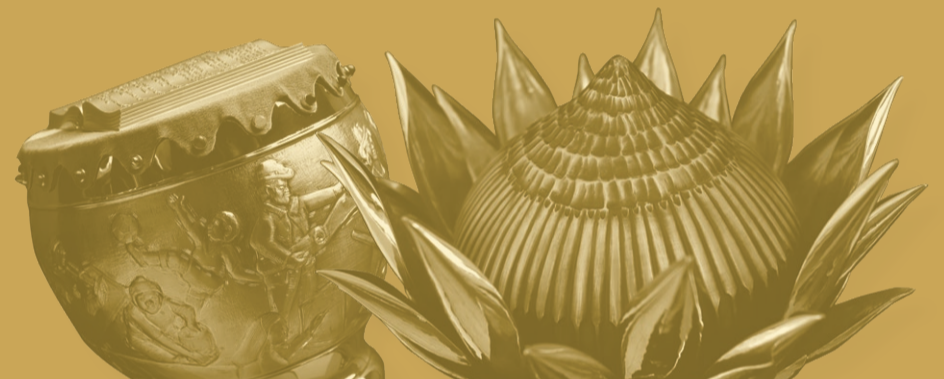
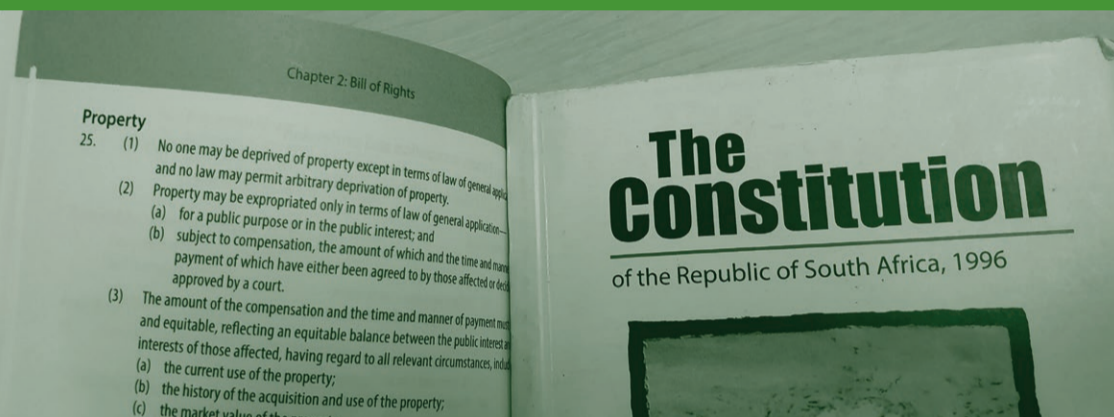
During these hearings, the following questions were posed to stimulate meaningful inputs from the public:

- Is **Section 25 of the Constitution** hindering the expropriation of land without compensation?
- What changes would you like to see for the proper implementation of **Section 25 of the Constitution**?

What happened after the 2018 public hearings?

The **Joint CRC** compiled a report and tabled it in the National Assembly (NA). The report listed the following key issues arising from public inputs:

- There is **unequal and skewed** ownership of land in the country.
- The security of tenure for **farmworkers, farm tenants** and those residing on communal land held in a Trust must be assured.
- Corruption, an insufficient land** reform budget, along with a lack of capacity within the state were mentioned as hindering the land reform process.
- The state is urged to formulate a clear strategy for **land redistribution** to address the injustices of the past.
- The Constitution should explicitly state the **expropriation of land** without compensation as a legitimate option for land reform.



Who must participate and how?

All interested and affected parties, individuals and organised formations are invited to participate by:

Making written submissions addressed to the Ad Hoc Committee on **Section 25 of the Constitution**. Submissions must be sent to the Secretary of the Ad Hoc Committee, Mr Vhonani Ramaano by **29 February 2020**.

- Address:** 3rd floor, 90 Plein Street, Cape Town, 8000
- E-mail:** section25@parliament.gov.za
- WhatsApp:** 081 410 5932

Attending public hearings:

Public hearings will be held in all provinces from **28 February 2020** within several district and metropolitan municipalities across the country.

National lockdown that was called by the President Cyril Ramaphosa in March due to Covid 19 pandemic led to postponement of public hearings in three provinces: Limpopo, Northern Cape and Western Cape. Now under the lockdown level 1, the public hearings are due to re-start from **22 October to 31 October 2020**.

For further information about submissions and public hearings on the Bill, you may contact the Secretary of the Ad Hoc Committee on **Section 25 of the Constitution**, Mr Vhonani Ramaano on:

- Tel:** (021) 403 3820
- Cell:** 083 709 8427
- Email:** vramaano@parliament.gov.za



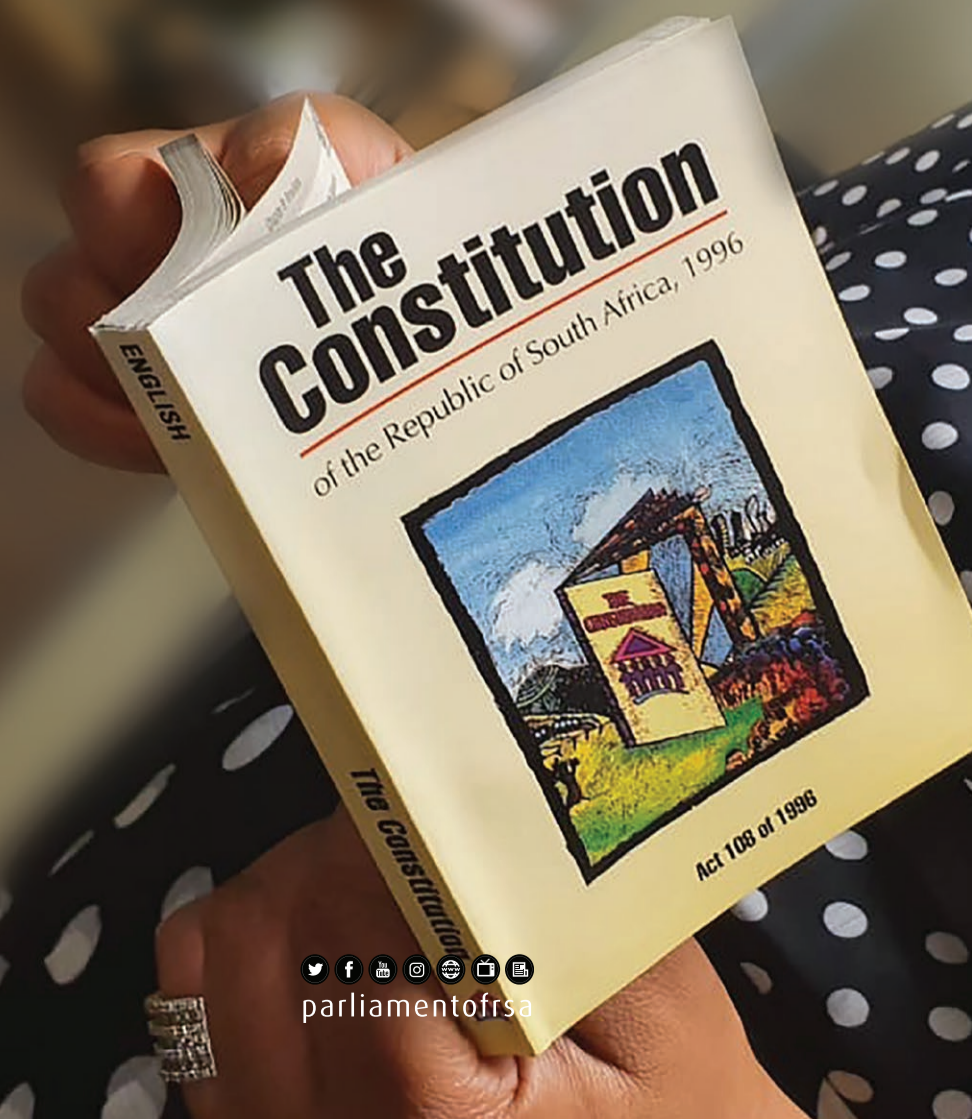
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SECTION 25 OF THE CONSTITUTION EIGHTEENTH AMENDMENT BILL



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What were the dominant views of the public during the hearings?


The public hearings were concluded with two opposing main views.


The first view is that **Section 25** is an impediment to the expropriation of land without compensation, and needs to be amended. In particular, **Sections 25 (1), 25 (2) (b) and 25(3)** were highlighted as problematic. These provisions are perceived to be protecting property rights acquired during colonial and apartheid days.


The second view is that the Constitution already allows for expropriation without compensation. This view is supported by **Section (2) (a)**, which states that property may be expropriated only in terms of the law of general application for public purposes.

Those opposed to the amendment of **Section 25** further recommended that Parliament repeal the **Expropriation Act (63 of 1975)**, and process the **draft Expropriation Bill** to align it with **Section 25**.

What are the current recommendations of the Joint CRC?


 **Recommendation 1:**
Section 25 of the Constitution must be amended and be clear about the **expropriation of land and property** without compensation. This will **address historic wrongs of land dispossession**, ensure **fair access** to land and **empower the majority** of South Africans.


 **Recommendation 2:**
Parliament must urgently establish a mechanism to effect a necessary amendment to the relevant part of **Section 25** of the Constitution.


 **Recommendation 3:**
Parliament must table, process and pass a Constitutional Amendment Bill before the end of the **5th democratic Parliament** to allow for expropriation without compensation.

The current **6th Parliament** is working on finalising this recommended amendment.

Objectives of the Bill

 **Subsection 2 (b)**
Provides for a court of law to make a decision for nil compensation when land or property is expropriated for land reform.

 **Subsection 3**
Sets out the conditions and circumstances that must be considered when a decision is made by a court regarding the amount of compensation.

 **Subsection 3A**
National legislation must be passed that outlines the circumstances when a court may arrive at nil compensation for expropriated land or property e.g. The Expropriation Bill.

Why is Parliament conducting public hearings again?

Parliament, mandated by the **Constitution** must **ensure** that the **public is involved** in all its processes, including **law-making**. To satisfy this mandate, the Ad Hoc Committee is inviting all interested and affected parties, individually and or organised, to participate in the **18th Amendment of the Constitution**, as it relates to **Section 25**.

The Committee will consider all the **public inputs** on the amendment of the **Constitution** in order for the **NA** to **pass the Bill**.

Why is it important to participate?

Public participation is a democratic process that **ensures law makers listen** to the **voices of the people** when they are making laws.

What will happen after the public hearings?

The **Ad Hoc Committee** will return the **Bill** to the **NA** after taking all **public inputs into consideration**. The Members in the **NA** will then vote on the **18th Amendment of the Constitution**. If the **NA** passes the **18th Amendment**, the **Bill** will then be referred to the **National Council of Provinces (NCOP)** for engagement with the provinces on the **Bill**. Once the law passes, it will allow for the expropriation of land and property without compensation.

"An Activist and Responsive People's Parliament, who listens to the people"