

# LIMPOPO LEGISLATURE

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## NEGOTIATING MANDATE

**TO :** THE CHAIRPERSON: SELECT  
COMMITTEE ON TRANSPORT, PUBLIC  
SERVICE AND ADMINISTRATION

**NAME OF BILL :** EXPROPRIATION BILL

**NUMBER OF THE BILL :** [B23B- 2020]

**DATE OF DELIBERATION :** 14 NOVEMBER 2023

**Vote of the Legislature :** Provincial NCOP Permanent Delegates to negotiate in favour of the Bill with the proposed Recommendations.

## PROPOSED RECOMMENDATIONS

1. The role of traditional leaders (Council) and Provincial Traditional Houses was totally excluded in the Bill and therefore should be included, especially on issues affecting expropriation of properties in communal land.
2. The rights of traditional leaders should be protected and must be consulted regarding properties to be expropriated, especially, those found to be in communal land.
3. Communities residing in communal land should also be consulted on properties envisaged for expropriation.

4. Reasonable and fair mechanisms should be developed to ensure that consultation with communities to be affected by expropriation are done and not only limited to the Traditional Leaders and Local Councillors.
5. Land adjacent to farm dwellers should be expropriated and donated to the farm workers to ensure restorative justice.
6. Expropriation is not consensual and therefore recourse should be developed for the dispossessed whose land was taken and not having title deeds to reclaim land forcefully taken, e.g by private individuals and universities.
7. Measures should be developed for sufficient resources to be provided to traditional leaders to access courts to find justice on disputed issues.
8. Land should be audited and registered to empower communities in the rural areas.
9. Government should gazette name changes to formalize property ownership in communities.
10. Environmental assessment on properties to be expropriated should be included or captured in the Bill.
11. The Bill must at least have a specific section dealing with Communal or Tribal Land to protect customary interest of communities of land under the jurisdiction of traditional leaders.
12. The section must amongst others, deal with the consent and procedure of the Community and Traditional Council in case the notice of expropriation is given affecting tribal land.
13. It must also deal with how compensation must be dealt with on Tribal Land after parties reached an agreement.
14. There must also be a section that deals with land claims that are still pending before the Land Claims Court or Land Commission, in so far as expropriation is concerned.
15. Definition of organ of state must clear. (Traditional Leaders should be stated unequivocally).



17. Land in rural areas must be returned and registered in the name of Traditional Leaders.
18. Traditional Leaders must form part of the Expropriation Authority (all the Structures should include Traditional Leaders).
19. Proclamations allocating land to more than one traditional leader, must be rectified. The original names of specific areas under traditional leadership must also be returned to the specific traditional leaders with their own original names.



**HON MAKHURUPETJE M.G**  
**CHAIRPERSON PORTFOLIO COMMITTEE ON PORTFOLIO ON PUBLIC**  
**WORKS, ROADS AND INFRASTRUCTURE**

14/11/2023  
**DATE**

**REPORT OF THE PORTFOLIO COMMITTEE ON PUBLIC WORKS, ROADS AND INFRASTRUCTURE ON PUBLIC HEARINGS CONDUCTED IN THE LIMPOPO PROVINCE REGARDING THE NEGOTIATING MANDATE ON EXPROPRIATION BILL [B 23B – 2020]**

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**1. INTRODUCTION**

The National Council of Provinces (NCOP) referred the Expropriation Bill [B 23B-2020] as section 76 Bill to Limpopo Legislature for consideration and referral to the committee relevant to process the Bill. The Portfolio Committee on Public Works, Roads and Infrastructure received the Bill as referred by the House. The Bill was considered by the committee, found it desirable and took a decision to conduct public hearings in the province to solicit inputs on the Bill in compliance with section 118 of the Constitution. The committee hereby report to the House in compliance with Rule 45 of the Standing Orders of the Limpopo Legislature for the House to confer a negotiating mandate to the National Council of Provinces (NCOP).

**2. PURPOSE OF THE BILL**

The Bill seeks to provide for the expropriation of property for a public purpose or in the public interest; to regulate the procedure for the expropriation of property for a public purpose or in the public interest, including payment of compensation; to identify certain instances where the provision of nil compensation may be just and equitable for the expropriation in the public interest; to repeal the expropriation Act, 1975 (Act No. 63 of 1975); and to provide for matters connected there with.

**3. CONSIDERATION OF THE BILL**

In a meeting held on 15 March 2023, The Portfolio Committee on Public Works, Roads and Infrastructure received a briefing on the Bill (Expropriation Bill [B 23B- 2020]) from National Department of Public Works and Limpopo NCOP permanent delegate. The committee upon briefing, found it desirable to continue with the Bill and solicit inputs from the stakeholders in the province.

The public hearings were conducted in all provincial districts, mainly traditional leaders and the members of the public on 16 May 2023 at Capricorn and Waterberg districts, 18 May 2023 at Sekhukhune district and 23 May 2023 at Vhembe and Mopani districts.

The committee had upon engagements noted complaints from the traditional leaders regarding time constraints and dissatisfaction of poor attendance by some traditional leaders. Informed by



such developments, a public hearing for provincial House of Traditional Leaders and their Local Houses was arranged on 12 June 2023 in a quest to ensure sufficient consultation on the Bill. It was however postponed due to unavailability of the National Department of Public Works officials.

It was upon realization of the extension by NCOP for the submission of the negating mandates wherein the committee organised a public hearing with Traditional Leaders on 25 October 2023. The public hearing ensued and the traditional leaders who were at the hearing raised a concern that their Executives from both Provincial House of Traditional Leaders and their Local Houses were not at the hearing. Therefore, participation and input would be of no effect without their leadership. However, the committee briefed traditional leaders about the contents of the Bill and the hearing was adjourned.

In consideration of the developments and concerns as alluded above, the committee did arrange a meeting with the Executives of both the Provincial House of Traditional Leaders and their Local Houses on 07 November 2023 for input on the Bill. The meeting was a success and progressive as leadership participated effectively and provided input on the Bill, to which the committee found desirable and appreciated.

In relation to the constitutional requirement of consultation, the committee has made sure that the stakeholders as invited during the public hearings were given sufficient opportunity to make inputs on the Bill. It was further made sure that written public inputs are also included in this negotiating mandate to attest to the committee's effort to ensure public participation and soliciting sufficient inputs on the Bill.

A committee report is hereby submitted that Members and stakeholders are in consonant that the mandate to negotiate in favour of the principles and provisions of the Bill should be conferred with inputs and recommendations made thereto.

#### **4. BRIEFINGS BY THE PERMANENT DELEGATE AND NATIONAL DEPARTMENT OF PUBLIC WORKS**

The Members and stakeholders were appraised on principles and provisions of Bill during the briefings at public hearings. The following issues were highlighted amongst others:

- (1) Repeal of Expropriation Act, 1975 which has the force of law by virtue of the transitional provisions in schedule 6 to the constitution.
- (2) The interpretation of the Expropriation Act by the constitutional court with those parts of section 25 of the Constitution, i.e Property clause relevant to expropriation.
- (3) Standardisation of the Expropriation process by all government departments and agencies.



- (4) The judicial and administrative expropriations in relation to substantive and procedural aspects of expropriation law in conformity with the constitution (Public purpose and public interest expropriations).
- (5) The empowerment of other functionaries to expropriate for purposes relevant to their respective functional areas of legislative competence.
- (6) Expropriation process (method) in terms of the Bill:
  - 5.1 Public purpose or public interest needs identification.
  - 5.2 Investigation and valuation of property
  - 5.3 Notice of intention to expropriate.
  - 5.4 Notice of expropriation
  - 5.5 Possession of expropriated property
  - 5.6 Mediation and determination by court
  - 5.7 Compensation claims.
  - 5.8 Urgent expropriation
  - 5.9 Withdrawal of expropriation.
  - 5.10 Expropriation register.

## **6 INPUTS ON THE BILL**

The Members and the stakeholders welcomed and supported the principles and provisions of the Bill in respect of:

- Alignment of the existing legislation, Expropriation Act, 1975, to be in harmony with the Constitution.
- The processes and method for expropriation as contemplated in the Bill.

However, they were concerned about:

- Lack of consultation of traditional leaders, especially on properties for expropriation found to be on communal land. Instead, only municipalities have role at the expense of traditional leaders' interest.
- The role of traditional leaders and their Provincial Houses were totally excluded in the Bill informed by the fact that most municipal councils do not consult with traditional councils at all on properties found on communal land (Properties affected for development).

- Majority of people staying in communal land do not have title deeds hence prevalent abuse by the traditional leaders and the private sector (Land ownership).
- Lack of property ownership (land) disempowers communities for credit worthiness.
- Land in most rural communities is not registered and consequently individual rights on unregistered land are not protected.
- SANRAL in various communities expropriate land without any compensation to the people affected by the expropriation.
- The traditional communities find themselves disempowered as private sector conglomerates (Mines) takes land from traditional communities without consultation with affected communities but with agreements (Mining rights and licenses) issued by the Department of Minerals and Energy.
- Communities do not benefit from the mines operating in their localities.
- Traditional leaders and government take land from the vulnerable communities without due diligent done in respect of consultation with the affected individuals hence 'Seabuswa concept' still exists in the new dispensation.
- Traditional leaders sign agreements with private sector conglomerates (collaboration) without any consultation with their communities.
- Traditional leaders' limited access to courts due to lack of resources was viewed as a challenge.
- The private sector has and still encroaches on the land of the vulnerable without any recourse by the victims. This is especially prevalent wherein the dispossessed do not have right of ownership and due to unavailability of title deeds. But only those who were given title deeds by the apartheid regime have rights of ownership.
- Mechanisms should be developed to ensure that people staying in communal land should be given title deeds instead of permissions to occupy (PTOs).
- Properties of land forcefully taken from the dispossessed have to be bought without any compensation to those who lost their properties as they were not having title deeds.
- There are portions of land bought from the former owners, however, such former owners still occupied such portions of land to date without any action being taken.



- Environmental assessment is not being done on properties to be expropriated.
- Farm dwellers and their children are generally abused and unfairly evicted by farmers who own tracks of land.
- Name changes in communities is not being gazetted and consequently, this might have impact on property ownership.
- The Bill has taken long time since its introduction coupled by winding processes for the Bill to be passed into law.
- It was established that inputs made on the Bill were being solicited without any feedback to stakeholders until another prospective hearing.
- The Bill seems to have good intentions for purposes of infrastructure development and public benefit.
- The Bill at local level seems to only concern itself with municipal councils, and completely ignores traditional leaders and traditional councils, particularly land that is under the jurisdiction of traditional leadership (i.e. rural areas)
- The concern was that the Bill is silent on the Tribal Land.

## **7 RECOMMENDATIONS**

- 7.1 The role of traditional leaders (Council) and Provincial Traditional Houses was totally excluded in the Bill and therefore should be included, especially on issues affecting expropriation of properties in communal land.
- 7.2 The rights of traditional leaders should be protected and must be consulted regarding properties to be expropriated, especially, those found to be in communal land.
- 7.3 Communities residing in communal land should also be consulted on properties envisaged for expropriation.
- 7.4 Reasonable and fair mechanisms should be developed to ensure that consultation with communities to be affected by expropriation are done and not only limited to the Traditional Leaders and Local Councillors.
- 7.5 Land adjacent to farm dwellers should be expropriated and donated to the farm workers to ensure restorative justice.



- 7.6 Expropriation is not consensual and therefore recourse should be developed for the dispossessed whose land was taken and not having title deeds to reclaim land forcefully taken, e.g by private individuals and universities.
- 7.7 Measures should be developed for sufficient resources to be provided to traditional leaders to access courts to find justice on disputed issues.
- 7.8 Land should be audited and registered to empower communities in the rural areas.
- 7.9 Government should gazette name changes to formalize property ownership in communities.
- 7.10 Environmental assessment on properties to be expropriated should be included or captured in the Bill.
- 7.11 The Bill must at least have a specific section dealing with Communal or Tribal Land to protect customary interest of communities of land under the jurisdiction of traditional leaders.
- 7.12 The section must amongst others, deal with the consent and procedure of the Community and Traditional Council in case the notice of expropriation is given affecting tribal land.
- 7.13 It must also deal with how compensation must be dealt with on Tribal Land after parties reached an agreement.
- 7.14 There must also be a section that deals with land claims that are still pending before the Land Claims Court or Land Commission, in so far as expropriation is concerned.
- 7.15 Definition of organ of state must clear. (Traditional Leaders should be stated unequivocally).
- 7.16 Definition of "Value" must be clear. Value cannot necessarily be defined in monetary terms only.
- 7.17 Land in rural areas must be returned and registered in the name of Traditional Leaders.
- 7.18 Traditional Leaders must form part of the Expropriation Authority (all the Structures should include Traditional Leaders).

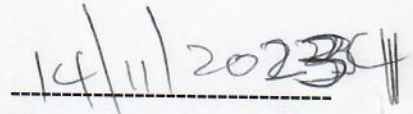
7.19 Proclamations allocating land to more than one traditional leader, must be rectified. The original names of specific areas under traditional leadership must also be returned to the specific traditional leaders with their own original names.

## 8 NEGOTIATING MANDATE

The Portfolio Committee on Public Works, Roads and Infrastructure having considered the Bill and taken into consideration the inputs recommend to the House to confer a negotiating mandate to the NCOP delegates to vote in favour of the Bill with recommendations above.



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**HON. MAKHURUPETJE M.G.**  
**COMMITTEE CHAIRPERSON**



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**DATE**