Cries of joy were undoubtedly heard all over South Africa – and the rest of the world – when Cyril Ramaphosa was elected president of the African National Congress (ANC) in December 2017.

The new president of the ANC is a businessman and agricultural producer in own right. He is someone who understands business and the economy, and the hope for an improved South African economy was suddenly restored. The trust that international investors have in his capabilities became evident in the strengthening of the rand after the ANC elective conference.

For some South Africans, however, the celebrations did not last long, as Ramaphosa announced during a meeting with Zulu King Goodwill Zwelithini early in January 2018 that the ANC will seek expropriation of land without compensation. This announcement came as quite a shock, as it is difficult to believe that a man who is for economic prosperity and who understands business can support such a decision.

The cries of joy (from those who do not own land) and sorrow (from those who do) after the announcement were so loud that little attention was paid to the next sentence in the speech. According to Ramaphosa, the ANC will seek ways to expropriate land without compensation, but only in cases where it does not harm the economy, agricultural production and food security.

When one tries to digest the announcement of ‘expropriation without compensation’ with the underlying condition of ‘without harming the economy, agricultural production and food security’, it becomes clear that this statement is, quite frankly, much easier said than done.

**Expropriation or deprivation**
Expropriation of property or land is by no means a new concept. Most democratic governments globally possess some form of power to
expropriate property or land in cases where it is in national interest, or where the private owner tries to prohibit government from acquiring the property.

What is important is the fact that expropriation should be accompanied by fair compensation and this compensation must come from public funds. In principle, it means the private owner of the property will lose said property but benefit by gaining compensation, while the rest of the people in the country (tax payers) will lose by paying said compensation, but gain from usage of the property.

So, what does expropriation without compensation mean? When one looks at how expropriation works in the global context, it is clear that it should be accompanied by fair compensation. Expropriation without compensation is therefore basically a new term, made up by the ANC (or perhaps the EFF).

The fact of the matter is that since no compensation is paid, it cannot be called expropriation. What the ANC is suggesting is the ‘deprivation of property’, which is not allowed according to the constitution.

That being said, many people argue that the constitution will protect us from the deprivation of property, while others say the constitution can be changed. Yes, the constitution may be changed to allow the deprivation of property (if more than two-thirds of parliament agree), but I am not sure on what grounds this proposal would be based.

The redistribution of land, up to now, was based on proven assertions that land was dispossessed from claimants due to previous laws or practices founded on race. If the argued change to the constitution for land deprivation is only because white people own most of the land, and that it must be transferred to the black majority, we will have yet another law based on race, and the non-race democracy on which this country should be based will be demolished.

Programme impact
To date, the government has used two options to obtain land, either through expropriation (with fair compensation) or by buying land on the free market (for this article, I will refer to both as expropriation since fair compensation took place).

According to government and those who seek land, the biggest problem with the expropriation programme is that the process is too slow – at this rate, the target for land redistribution cannot be reached. While the process has indeed been very slow, this should not be blamed on unwilling sellers in the free market, but rather on government processes that failed.

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When one considers the impact of the previous expropriation programmes, it may be argued that it did not really harm the sellers and the economy, as they were compensated for the land. However, while it is true that sellers were compensated, there is no doubt that these programmes damaged the economy, agricultural production and food security as, in Mr Ramaphosa’s own words, “most of the redistributed land is lying derelict at the moment”.

This, yet again, can largely be blamed on government, since the title deeds of the land are not transferred to the beneficiaries and they therefore do not have any security to get production credit.

When one thinks about land deprivation, it is obvious the risk remains that the deprived land will also be left derelict. Yet the problem here is much larger as much of the privately-owned land has mortgages. In many cases other credit (such as production loans) was also issued to producers based on the land as security.

In the event where land is expropriated, the private owner can use the compensation to settle outstanding loans, but how will this debt be serviced in the case of land deprivation? The deprivation of land (or expropriation without compensation as stated by the ANC) will essentially be impossible to implement without harming the economy, agricultural production and food security.

Need for correct data
Government’s target was to redistribute 30% of agricultural land to black beneficiaries. In order to trace how far the government is from this target (no trusted data exists), Agri SA did a land audit of the transfer of land to black owners and government since 1994. The audit stated that previously disadvantaged individuals and government now own 26.7% of the available agricultural land in South Africa based on area, or 29% based on value. This land was acquired through government and private transactions. When one considers this data, it seems as if the 30% target is within reach.

Some stakeholders now argue that the land owned by government should not be included in this figure. In my view it should be, as the land only belongs to government due to the fact that the title deeds of the land were never transferred to the beneficiaries.

Another problem is that the data from Agri SA’s audit and the figures from the Department of Rural Development and Land Reform differ. According to Agri SA, a total of 6.5 million hectares were transferred to government and black owners, while the department states that a total of 8.1 million hectares were transferred. Who is correct?

We desperately need correct data on the current ownership and production status of agricultural land in South Africa before any arguments can be made regarding the future of land redistribution.