

Land Reform: Reconstructing rural South Africa

by: ANC Land Commission Secretariat

Two fundamental issues frame the problem of land reform in our country, our historical grievance resulting from the process of dispossession and the problem of reconstructing our whole agricultural system -- commercial and subsistence. Resolution of this crisis facing our agrarian sector requires an integrated approach which recognizes how closely these two aspects of the problem are intertwined.

South Africa has been appropriated by the white minority. Politically this is maintained by a monopoly over political power. But socially, in the lived experience of our people, this appropriation is reflected in control of the land.

By law whites, who own 87% of the surface area of South Africa, can expel black people from the land, demolish their homes, prevent black people from entering, crossing or remaining on "their" land. The result is that control over land is not only control over a productive resource, but is control over the lives of people. This means that only if we truly de-racialise the terms of ownership, occupation and use of the land, will the question of land focus on issues of land use and agricultural development and no longer be a question of domination and subjugation.

Thus we argue that if the issue of sovereignty is to be addressed and the questions of how the land should be owned and workers reached, then what we need to do is to ensure that South Africa has one national body of law governing the question of land rights.

This requires that we abolish racist statutes, equalize state supports to farmers, introduce principles of constitutional rights and apply the rule of law evenly to all those living in the countryside. This will de-racialize land law and open the way to a fair and acceptable method of tackling the difficult problem of competing claims to land.

Legally this vision requires the introduction of constitutional, legislative and practical means of implementation which would:

- \* protect the fundamental rights and liberties of all who live on the land;
- \* extend the rule of law to prevent abuse of people's rights -- with profound implications for local policing and judicial practices;
- \* guarantee a minimum platform of social, economic and cultural rights;
- \* provide guarantees of worker's rights, and;
- \* produce laws aimed at promoting gender rights and combating the oppression of women as well as provisions designed to give support to the family.

Achievement of a commitment to extend these universal human rights to all of our people living in the countryside would serve as a basis for addressing the need for land redistribution. In applying these principles we may identify three important aspects of a possible land reform programme:

- \* first, there must be an immediate and publicized restitution or return of expropriated land to those communities who have suffered forced removals.



Facilitating the return of victims of forced removals to their land and creating conditions which will allow these communities to live and farm successfully, will both acknowledge past injustices and indicate a commitment to the adoption of just solutions;

\* second, the adoption of legislation to protect occupants on the land from eviction, except on very limited grounds. This measure would create conditions in which it would be possible to begin exercising freedom of speech and organisation in the countryside, to guarantee basic trade union rights for agricultural workers and to create conditions for eliminating existing patterns of physical abuse and the persistent violation of the basic human rights of those living on the land;

\* finally, competing land claims may be tackled through the establishment of a process to evaluate competing claims, possibly through the establishment of a Land Court which would apply an agreed upon list of factors in each case. Factors may include birthrights, the history of occupation, a history of productive use, inheritance and the question of title, both ancient and current. The Land Court would then be in a position to make determinations based on the evidence submitted by the parties and in case of irreconcilable claims to a particular area of land it may be possible for the Court to apply standards of just compensation, involving a reallocation of land, compensation for capital improvements to the land or other suitable basis of

compensation.

The success of such a programme of land reform will however also be dependant upon the rapid allocation of large areas of land to alleviate the pressure of immediate land hunger, particularly in relation to the provision of urban land for housing, and land that can be used to alleviate the burden of overcrowding in the bantustans.

Although we may not ignore the centrality of our claim to the land, which springs from our claim of citizenship and forms the foundation of our national struggle, we must also recognise that land reform and redistribution cannot be achieved outside of a comprehensive reconstruction of South Africa's rural areas. This approach involves much more than the division and parcelling out of land. Although our focus this afternoon is on rural land we must not forget that any land reform programme must address the demands of our people for land and housing in urban areas.

Reconstruction requires the formulation of both a general goal, to create a system of sustainable agriculture and rural production, and a range of more specific aims. For us to create a sustainable agricultural system we need to address the failures of the present dualistic system of commercial and bantustan agriculture. Six specific aims may be identified as prerequisites to the achievement of our general goal. These are in brief, the need to:

- \* provide a place for rural people to live and produce their food and fuel;
- \* provide employment for rural people



- \* provide food for the urban population
- \* provide industrial raw materials
- \* earn foreign exchange with the exports produced
- \* protect the environment in order to pass land on from generation to generation in a better condition than it was received.

The enormity of our task and the complexity of the issues we face is revealed when we juxtapose some of these aims with some existing realities. When we commit ourselves to a rural reconstruction strategy which aims to provide a place for rural people to live and produce their food and fuel we must recognise that today:

- \* over 15 million people, nearly one half of South Africa's population lives in the countryside;
- \* South African agricultural production is dominated by some 60,000 white farmers with grossly disproportionate control over resources and political power. This domination is compounded by decades of heavy subsidies which did not necessarily support production;
- \* and that this exists in a context in which the 1913 and 1936 Land Acts set aside a mere 13,6% of the total land area for black occupation and use, and gave white farmowners almost absolute control over the lives of the black people living in the remaining 86,4% of the South African countryside -- whether as tenant farmers or labourers.

When we speak of reconstruction providing employment for rural people we must also recognise that:

\* a total of some 5,5 million black people live in the so-called white rural areas and of these 934,000 are farm employees;

\* and furthermore, between 1960 and 1983 the impact of mechanization, mono-crop production and a state policy of forced removals saw an estimated 1,1 million farmworkers and their families removed from white farms.

When we speak of providing food for the urban population on the other hand we are quickly warned that any attempt to redistribute the land or to restructure commercial agriculture will have a devastating impact on food security.

\* However, it should also be noted that by 1983 some 30% of white-owned farms supplied about 75% of South Africa's agricultural produce.

\* Conversely this same group controlled 80% of South Africa's overall agricultural resources, an imbalance reinforced by a history of producer controlled pricing policies and marketing and financial practices.

\* By contrast, bantustan inhabitants, who make up about one third of South Africa's population supply less than 7% of the country's annual agricultural production. This portion of our population live with severe land hunger on plots which fail to meet even the subsistence needs of their occupiers.

If we aim, in this context, to protect the environment and to make it possible to pass land on from generation to generation in a better condition than it was received, we must recognise that:



\* present South African agricultural practice, including the commercial farmers' exploitative farming methods and the overcrowding in the bantustans, are rapidly and severely degrading our environment;

\* new forms of land abuse have emerged with the overuse of chemicals in insecticides, herbicides and chemical fertilizers;

\* and that, despite their banning in other countries, DDT, 24-D, 245-T and some banned organochlorides are freely available and widely used in South Africa.

However it must be realized that to even begin to tackle these problems and to strive for these goals, we must all acknowledge that the major issue in any discussion of the land in South Africa, remains the issue of sovereignty.

**NOTES ON LAND REFORM**INTRODUCTION

Because of his natural dependence on land, every person has certain basic needs with regard to access to land and its use. The need for land must, however, be met within the bounds of reality, the most important of which is that, whilst the population continuously increases, the area of land remains constant. In this context land is the most precious resource for the existence and survival of man. Land is the base from which he operates and makes a livelihood. It is the basis on which his entire economic, social and constitutional order is founded.

It is therefore not surprising that land issues are often so clouded by emotion, as to make a balanced assessment of the true position exceedingly difficult.

The new policy on land reform focuses on land as a basic resource common to all the people of our country. It is considered to be of the utmost importance that the productive use of land in the wealth-creating process of a market-orientated economy should be maintained. Consequently, access to these processes and to the opportunities they offer have been declared open to all without qualification. Moreover, the extension and adaptation of these processes are envisaged so that they may also benefit those sections of the population whose needs and aspirations have not yet been adequately met. In general, the land policy has been formulated in as balanced a manner possible to accommodate the population as a whole without losing sight of the basic functions of land and the responsibility to conserve it for future generations.



The first objective of the Government's policy is to make rights in land throughout the country accessible to all people regardless of race, colour or descent. To achieve this objective, the Government has assumed the following policy positions, viz:

- (a) That a person's legal capacity to acquire and exercise rights in land may not be limited by his race or membership of a population group, and that statutory or other restrictions which, for reasons of race, directly or indirectly obstruct access to the acquisition, exercise and enjoyment of rights in land, be removed without qualification in an orderly manner; and
- (b) that far more than the mere removal of racially based restrictions is necessary to satisfy the reasonable aspirations of all sections of the population and that support measures designed to enable people to acquire land for occupation and beneficial use be made accessible to all and be extended in both the public and the private sectors.

Being the emotive issue that land is, there exists the school of thought that the reasonable aspirations of the majority cannot be met unless a comprehensive programme of land redistribution is embarked upon, whether by nationalisation, expropriation or other coercive methods.

#### DISTRIBUTION OF LAND

The pattern of land distribution in the Republic of South Africa is the product of geographic, topographic, climatic, demographic, historical, political and a host of other factors. The combined effect of these factors has over time determined not only the international borders of our country but also its internal boundaries, thereby setting the pattern of land distribution.

The existing land use pattern is largely the product of our heritage. Were the redistribution of land to be embarked upon, one would at least have to retrace the position to colonial times, when various British colonies and protectorates comprised the southern tip of Africa. The then composition and distribution of its population, both in numbers and in ratio to one another, bears no comparison to what it is today. To turn back the clock would imply undoing economic, constitutional and social progress and development since the Union of South Africa was formed in 1910. This, of course, is absurd.

The 1913 and 1936 Black Land Acts set apart land for the exclusive tenure, use, occupation and ownership of Black persons. The greater part of this land forms the territories of the TBVC States and the self-governing territories. To these should be added the territories of the independent states of Botswana, Lesotho and Swaziland to gain a true perspective of the position on land distribution as it has evolved over the past century. When viewed in this context it would not be true to say that only approximately 13% of the country has been reserved for 80% of the population, as is so commonly averred. Moreover, when one takes into consideration other non-political factors, such as the topography and climate, it is clear that large tracts of land, comprising desert and semi-desert regions, are not conducive to human settlement in any significant numbers. Furthermore, if the utilization of land for towns, cities, nature reserves, transport networks and other similar types of development was to be disregarded, the remaining land, which generally speaking could be considered to have satisfactory potential in so far as human settlement is concerned, would probably constitute a much smaller proportion than that which is generally accepted to be the case.



RESTORATION OF PREVIOUS LAND/REMEDIES FOR THE DISPOSESSED

It is the Government's considered opinion that a programme of restitution entailing the restoration of land to individuals and communities who were forced to give up their land on account of past policies or other historical reasons would not be feasible. Government believes that the capital and energy which would have to be invested in restitution could be used more productively for the development and upliftment of deprived communities and the creation of new job opportunities.

Restitution attempts are likely to do more harm than good and there are also the practicalities of the matter to be considered. Conflicting claims and interests are inevitable due to the efflux of time and changed circumstances. Most land affected is today used for other purposes by persons who in good faith have spent time, money and energy on their development, after having obtained title to such land legally. Restitution would mean depriving innocent parties of their rights. No amount of compensation could allay the fears and uncertainty which would undoubtedly be created. Nor could restitution justify the harmful effect it would have on sound human relations, peace and stability within a plural society.

Nonetheless the Government has undertaken to approach this matter in a rational manner because it is sensitive to the needs of specific people or communities that could possibly have been disadvantaged in the past.

In its approach to development, the Government does not regard assistance as a means of bringing about artificial redistribution of land, but as an instrument to provide opportunities for greater participation in the wealth-creating process of the country. Assistance to the disadvantaged must therefore be viewed in this light.

To this end the Government has proposed the establishment of an Advisory Commission on Land Allocation to advise the State President on

- the identification of land belonging to the State acquired for the purpose of promoting the objects of legislation, such as, the Group Areas Act and the 1936 Land Act, which has not yet been allocated for a specific purpose;
- the identification of rural land with a view to the acquisition and utilization thereof for the purpose of agricultural settlement;
- the development of the aforesaid State land, or land to be acquired, within the financial means of the State; and
- the orderly allocation of such land with due regard to claims by persons disadvantaged in respect of the land concerned by the application of the aforementioned legislation.

These measures imply that persons who are of the opinion that they have a just claim to land may approach the Advisory Commission. Where land allocations are made, this will be on the basis that agricultural land will provide a decent living, whereas residential land will provide adequate living space.

Accordingly, the concessions announced to assist those who have a just claim to land are therefore neither irrational nor open-ended. They do not impinge upon rights of private ownership nor do they impose an impossible financial burden on the State. In as much as the concessions will apply only to specific state owned land or rural land purchased for this purpose, it should be possible to deal with claims in a fair and equitable, as well as a practicable manner.



These are, however, not the only measures aimed at granting relief to disadvantaged people. The underlying philosophy of the White Paper on Land Reform envisages equal opportunities for all to participate in the country's wealth through sustained economic growth and the support of the disadvantaged through social and economic upliftment programmes. The provision of education, employment, housing and other social services are amongst the Government's top spending priorities. The Government intends to unlock the economic and human potential of under-developed rural areas by means of intensified and co-ordinated action. Opportunities exist for the further development of agriculturerelated industries in towns and the surrounding rural environs. By exploiting these opportunities it will increase the capacity of rural areas to offer people employment and settlement opportunities.

Land plays a key role in all the development processes of the country, particularly in the fields of agriculture, housing, mining, tourism and trade and industry. Therefore the efficient use of this resource and the broadening of opportunities for development are absolute requirements for ensuring economic growth and progress. This requires an orderly and balanced pattern of spatial development which will ensure the judicious use of existing infrastructure and resources, maintain a balance between population numbers and employment opportunities and conditions, rather than racially based developed areas, which include large parts of the self-governing territories.

The regional development policy of the Government is aimed at achieving these objectives. The Government believes that the new policy direction being followed in the country, also as regards the opening up of land, affords the opportunity to place development within regions on an economically sound foundation. Development needs, opportunities and conditions, rather than racially based ideological considerations, will in future be the decisive factor in the spatial ordering of the economic system of South Africa.



Development needs, opportunities and conditions in both the core urban areas and the rural areas must be attended to within the context of regional development. The Government believes that balanced economic growth with the resultant opportunities for settlement must be realised within the rural and urban context, and that the decentralisation of economic and settlement opportunities based on the inherent growth and development potential of rural areas, should be actively promoted in order to ensure the effective use of land in the short and long terms. In this regard agriculture development plays an important role.

Private ownership of land, including agricultural land, is a cornerstone of the Government's land policy. Private ownership gives people a stake in the land, offers social security, promotes the optimal use of land and also stimulates an awareness of the importance of the preservation of this valuable resource. This is in keeping with the Government's opposition to any form of redistribution of agricultural land, whether by confiscation, nationalisation or expropriation.

The Government seeks to provide equal opportunities irrespective of race, regarding access not only to land but also access to the agricultural services structure as a whole. This includes, subject to the uniform application of the principle of merit, access to marketing, finance, training, extension, research and all other assistance programmes. In this regard the Government undertakes to make the services structures and assistance measures accessible to all, regardless of race, where this is not already the case. However, the Government cannot prescribe to voluntary associations in organised agriculture, co-operatives and other institutions in the private sector in this regard.

Subject to the granting of access to all, the Government also intends to continue the existing support measures in terms of the Agricultural Credit Act, 1966. In addition, the Land and Agricultural Bank of South Africa will be open to all on merit.



Improved access to finance for part-time farmers and tenant farmers is another matter that will have to receive attention, and the Government undertakes to take steps in this regard.

Although the emphasis in existing settlement programmes is on their continuation according to merit, the dynamic nature of the agricultural industry must be taken into account. New opportunities that are now being created will present new challenges. This also applies to settlement. State assistance in settling farmers on land is nothing new; such assistance has been provided for many years. Settlement programmes were implemented on a racial basis in the past, but this will not longer be the case. The Government believes that existing programmes should be expanded to assist new entrepreneurs to develop into independent small and medium farmers. An integrated approach, which also provides for the establishment of supporting agro-industries and agriculture-related services and amenities, is necessary. The Rural Development Bill contains certain provisions in support of this.

In conclusion I wish to point out the benefits emanating from the other Bills supporting the White Paper on land reform. The Upgrading of Land Tenure Rights Bill aims to convert statutory forms of land tenure into registered or registrable full ownership rights in the interests of promoting home ownership and the stability and contentment that comes with it. The Less Formal Township Establishment Bill proposes the rationalisation and streamlining of alternative township establishment procedures in the interests speeding up the process of land delivery for residential settlement. These measures augment initiatives taken by Government to review its urbanisation strategy and to formulate a new comprehensive housing policy and strategy.