

World Bank's land plan for South Africa

IN May 1993 the ANC held a conference on property and the constitution. Mr Hans Binswanger, of the World Bank, presented the World Bank's current position on land reform in South Africa. This is an extract from the paper which he presented at the conference.

SOUTH Africa seems to have two options: rapid and massive redistribution of land to black and coloured groups, which would involve substantial resettlement from the homelands onto land now in the commercial sector; or decades of peasant insurrection, possibly civil war, combined with capital flight and economic decline.

At this time, peasant unrest is still unorganised and confined to intra-racial conflicts and sporadic attempts at land invasion. If the hopes raised by repeal of most racially motivated land laws and restrictions on mobility are not confirmed by rapid restitution of land in the former black spots, and by additional assignment of land from the commercial sector, land invasions are likely to increase.

At first, such invasions will be uncoordinated and sporadic, and will concentrate in Natal and other areas close to the homelands. While Afrikaner farmer groups will be able to defend areas that are not contiguous to the homelands, and are arming themselves to do so, they will be powerless against murders committed by current and former workers and tenants.

Over time, some political group will organise a well-disciplined peasant movement capable of coordinated insurrection and

terrorism, using the rapidly increasing stock of arms in rural areas. Token appeasement schemes will, at that point, only be able to postpone a coordinated peasant insurrection for some period, the length of which is difficult to predict. But failure to act decisively and rapidly will inevitably bring it about.

Could South Africa avoid this fate by concentrated rural development in the homelands? Such development is obviously necessary whether or not land reform is undertaken; but even an aggressive program to develop human resources, roads, water supply and agriculture in the homelands will not be able to generate sufficiently large numbers of farm and

non-farm jobs to avert a massive employment crisis.

Converting commercial sector farms to small or medium sized part-time or full-time farms is the cheapest and fastest way to generate productive employment, both farm and non-farm, on the massive scale that is required. If a non-disruptive process to achieve this transition can be found, it will lead to more intensive land use and higher production. Both the reallocation of land and increased employment will reduce the extraordinary current tensions.

Given the complexity of existing land relations and the widely diverging aspirations of different social and political groups, a new land law should be anchored in the constitution. It should include provisions for secure private ownership, for more flexible forms of communal tenure than is currently allowed, and for government ownership of ecological reserves and perhaps national forests. Private ownership should be secure and not subject to effective use. Communal ownership could continue to be an option in the homelands and could also be used by land reform beneficiaries in subdivided farms. It should be based on the minimum common denominator of all

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communal rights systems, the constraint on sales to outsiders imposed by the community on its members. Just as company law ensures shareholder democracy, community law should specify minimum democratic rules for decision-making, which communities would have to fulfil in order to enjoy protection of the law guaranteeing their land rights and their legal status.

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Redress for violations of democratic rules for minority groups in these communities should be available through an arbitrage process, perhaps including traditional tribal institutions, with ultimate recourse to the judiciary. The law should leave to local communities the right to determine their internal land rules. Internal arrangements could include collectives in which plots are not tradeable, cooperatives with inalienable individual rights, and condominiums with largely unrestricted individual rights to rent and sell land to other members of the community. Allowing communities to amend their own bylaws would enable them to adapt to local circumstances and to changing external conditions over time. By voting to

eliminate the ban on sales to outsiders a community would join the private property regime for the plots it has allocated to individual families. A clear legal basis for a land reform program also needs to be created. Relevant provisions should include cut-off dates for claims, principles governing compensation, arrangements for financing the reform program and so on. Experience suggests that lack of legal clarity leads to delays and breakdowns in implementation.

A judicial approach could be used to settle claims to specific plots by groups evicted from their land during the apartheid regime's black spot removal. This approach could be based on clearly specified evidentiary rules and cut-off dates for restitution, and could be executed by mobile arbitration units and courts, such as those used in Chile after the Allende regime, which took about two years to accomplish their task. The same system could be used to deal with rights to housing, plots and grazing of current and former long-term workers, squatters and labour tenants, again with clear rules, length of stay and cut-off dates. It would be unwise to subject these rights to effective use requirements, since such requirements elsewhere have caused extraordinary delays and severely undermined the intent of the programs.

The general claim for restitution arising from past land policies and from the systematic destruction of smallholder farming cannot be handled by judicial means, but it could be handled by a market-assisted land reform, as in Kenya, where the poor were given grants to help them buy land from the commercial sector. The government would not buy or expropriate any land, but land would be transferred from willing sellers to groups of eligible beneficiaries.

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The beneficiaries would receive a partial grant to buy land, perhaps in the form of a land purchase voucher. They would combine this grant with their own equity and a loan from the Land Development Bank.

The beneficiary groups would be free to choose between communal tenure (in a great variety of forms) or private ownership. By having the freedom to choose their farms, internal management schemes and

subdivisions, they can select locations and farming systems most appropriate to the capital and skill endowments of their members. The farming systems can range from suburban residential communities with small kitchen market gardens to part-time, full-time or commercial farming. Beneficiaries would be assisted with additional transfers or vouchers for feasibility studies; land subdivision and recording; subsistence for the first year; and agricultural extension for subsequent years. The land vouchers would be targeted to the poor, who would be selected through some form of means testing.

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Without a means test, the scheme would likely benefit the middle class, bureaucrats and tribal chiefs.

Financing for the program would have to come from external and internal sources, some of which might include an external donor consortium, the uncollectible debt claims of the commercial farm sector, or an income or value added

tax levied on the past beneficiaries of apartheid.

Injecting purchasing power into the land market could cause the price of land to rise, which would make the program excessively expensive. The potential rise in land prices could be held in check by establishing a level playing field for all farm sizes, that is, by eliminating all distortions that favour the commercial sector in the tax code, the credit system and the marketing system, as well as in access to services and technology. Levelling the playing field would prevent distortions from forcing a reaggregation. In addition, loans from the Land Bank for land purchases should be limited to the productive value of land, an approach that is already largely in place.

Achieving agreement at the constitutional stage requires that current tensions over land policy, and the mutual distrust of the negotiating parties, be rapidly diffused. One way to accomplish this might be to implement the following short-term measures:

- abolish the land subdivision act
- recognise that labour tenants and workers who have resided on farms for a long time have a claim to some land and housing on a retroactive basis (that is, whether or not

they were recently evicted)

- establish a moratorium on distribution of government (trust) land
- establish a moratorium on land invasions

Substantive and rapid market-assisted land reform and resettlement is the greatest if not the only hope for peaceful development in South Africa. It is also the greatest hope for the rapid growth of productive employment and self-employment opportunities. The international community has a great interest in helping South Africa to finance such a program for economic and humanitarian reasons; and the short-term measures suggested here would contribute to mobilising international support.

This extract comes from a paper written by Hans Binswanger and Klaus Deininger of the World Bank and the University of Minnesota. The paper is due to be published in full in October 1993 in a special section of *World Development*, called *Experience With Agricultural Policy: Lessons For South Africa*.