

# World Bank's latest options for SA land reform

Here, we present a summary of the World Bank's latest options for land reform in South Africa. Their proposals were part of a conference on land redistribution options, hosted by the Land and Agricultural Policy Centre in October. In future issues of AFRA News we will be carrying responses to these proposals from AFRA and other National Land Committee affiliates. We also welcome responses from our readers.

ON the basis that "greater reliance on smallholder production offers South Africa the chance to realise significant gains in social justice, employment and agricultural potential," the World Bank researchers have proposed a land reform process which involves two main areas of state involvement: land restoration and land redistribution.

Regarding current problems faced by rural communities with whom AFRA works, two aspects of the World Bank proposal are interesting to note.

Firstly, the World Bank proposes that white property owners who were expropriated through apartheid policies be excluded from the land claims process, since they were adequately compensated and had access to the political process denied to black victims of apartheid.

They also recommend that black claimants should not pay for land returned to them, because they are regaining what rightfully belongs to them.

The present government is insisting that black communities who were forcibly removed and who received monetary compensation should repay that compensation when they get back their land.

Secondly, under its redistribution option, the proposal is for a "matching grant scheme" to assist disadvantaged people to get access to agricultural land.

The Bank has suggested that there be a 30% grant, a loan of 50% and a downpayment of 20% from the disadvantaged people concerned.

The present government grant already covers up to 80% of the purchase price of land for disadvantaged rural communities.

## Forced removal will qualify for land restoration

The World Bank says that land restoration would involve returning specific parcels of land to people who were unjustly removed through racial land laws or policies.

Land claims which would qualify for inclusion in the land restoration process, they say, should be those acts of dispossession which occurred after the 1913 Native Land Act. This includes three broad categories of forced removal:

- Black spot removals. These involved removal of black people from pockets of black-owned land in "non-Black" rural race zones after the 1913 Land Act and the 1936 Development Trust and Land Act. It was government policy to force people living in these areas to move to one of the self-governing territories or newly "independent" states.

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territories or newly "independent" states. Black spot removals provide the clearest cases for unrestricted restoration.

- Bantustan consolidation removals. The South African government, in cooperation with the national state or self-governing territory, used the National States Constitution Act of 1971 and the Borders of Particular States Extension Act of 1980 to amend the borders of various bantustans and to include in them areas which had previously been excluded. This allowed the bantustan governments to ignore registered property rights which communities may have had and to remove communities from such land under the guise of privatisation.
- Labour tenants and squatters. Most evictions of labour tenants occurred under provisions of the Development Trust and Land Act, until the abolition of labour tenancy in 1979. The situation of labour tenants raises difficult questions about what would be appropriate redress and what compensation, if any, should be paid to the existing owners for loss of part or all of their land. However, the World Bank says, it is essential to recognise the birth right of long-standing occupiers of land. Labour tenants and squatters

who suffered eviction will have a claim to restoration.

The Bank suggests several remedies for this group's claims. If claimants want to continue farming and still live on the land or were only recently evicted, part of the farm may be awarded to them. If there is concern that restoration will lead to unresolved conflict with the legal owners, claimants may get alternative land or monetary compensation. Where there is inadequate evidence about birth right to a particular part of an existing farm, but the claimants want access to land, such claimants should be directed to the redistribution process where they should get priority.

### **White expropriation excluded from claims process**

The Bank argues that white property owners who may have been expropriated through any of these policies would be excluded from the land claims process, on the assumption that they were adequately compensated and had access to the political process denied to the victims of apartheid.

To effect restitution, a speedy and effective land claims mechanism would have to be established, which they say could be either an administrative tribunal or a land claims court.

### **Speedy process needed**

One way to promote speed, is to create commissions which will decide in which category a claim falls. If the land being claimed is state-owned, the commission could make a decision, subject to review by a land claims court.

If land is privately-owned, the commission could make a recommendation to the land claims court for its decision. This would allow the land claims court to focus on difficult cases on appeal and speed up the whole process.

In terms of its restitution model, the World Bank says that people who enter the land claims process will face four possible outcomes to their land problem:

- a land award
- a cash award
- denial of their claim
- referral of their claim to the land redistribution process.

### **Most land reform will be through redistribution**

In terms of the World Bank proposal, most land reform activities will occur under a redistribution programme rather than restoration. They identify a central tension, in designing a land redistribution model, as that between addressing social welfare objectives and promoting productive use of land.



### **Basic grant to meet welfare needs**

Those who qualify for land or aid under welfare objectives of land redistribution, often have little experience in agriculture, the World Bank says. On the other hand, the most experienced and well-qualified farmers often do not qualify to get land under welfare objectives.

To bridge this tension, the Bank suggests that South Africa's land redistribution programme contain a basic grant element and a matching grant element.

The basic grant element would be available to people who meet the requirements for participation in the redistribution programme.

The size of the grant would be enough to pay for a major share of a rural housing site. The size of the grant could also be based on need, rather than be uniform.

### **Matching grant for access to productive land**

To support increased access to land that will lead to its productive use, it is argued that a matching grant option should be added.

Here, those wanting land would provide part of the purchase price as would the redistribution programme.

Advantages of the matching grant scheme, says the World Bank, are that:

- co-payment acts as a self-selection or rationing device and reduces frivolous requests for land from people who are not really interested in living in the rural areas or farming
- co-payment increases incentives for productive and sustainable use of land
- co-payment may encourage thrift and capital accumulation among beneficiaries and familiarity with financial instruments
- co-payment makes it less attractive for the wealthy to claim land, especially if co-payment requirements increase with the amount of land claimed
- the programme will have fewer built-in incentives for arbitrary land allocation or corruption

Disadvantages include:

- inconsistency of co-payment with the belief that the right to land for food and shelter should be free
- low income households and individuals may not be able to afford co-payment and the programme may be accused of elitism.

To reduce this, the Bank suggests that poor beneficiaries be allowed to pay their co-payment portion in kind - in the form of labour or materials for the construction of minimal infrastructure which would be part of the programme.

### **Making land available**

Although the central theme of the land redistribution options put forward is a reliance on market forces to aid acquisition and redistribution, the World Bank says the government must accept ultimate responsibility for the redistribution programme's success.

A critical requirement for a market assisted redistribution programme is that enough land will come on the market and that land prices will not rise above levels matching productivity and profit potential.

The World Bank suggests that these objectives may be met through:

- eliminating policies and programmes that favour large scale agriculture
- selling or directly providing state land to particularly needy beneficiary groups, such as, labour tenants or betterment victims.
- encouraging land owners to sell their land. This can be achieved through a pension scheme which gives them a secure income based on the net worth of their farms, encouraging financial intermediaries to speed up the foreclosure on farms with non-performing loans, the state paying brokers a fee for bringing extra land onto the market.
- limiting the price which beneficiaries.

### **Should victims of racial land policies pay for land?**

The World Bank says that claimants in the restitution process should not have to pay for land because they are regaining what rightfully belongs to them.

They say the question of payment should only arise in the context of land redistribution. Here some form of co-payment from beneficiaries of the redistribution programme is essential.

They argue that if beneficiaries were exempted completely from paying for some part of land redistribution, and current owners and farm creditors were also to be compensated, the state would have to finance 100% of land acquisition costs.

Ultimately, the state would get this from tax revenues, so exacting the whole cost of land redistribution from tax payers. But there would have to be clear limits to taxation or growth of the economy would slow down.

Given the large resource requirements for other social needs, redistributing land on an solely grant basis would mean either drastically reducing numbers of beneficiaries or stretching out the programme over several decades.

### **Should current landowners be compensated?**

If they are compensated at the current market price, some would argue that they have benefitted from apartheid.

Ultimately, a new government will take the decision on this issue but there are several points that might inform its decision, says the World Bank.

Firstly, the current owner is likely to have gained the land in a genuine transaction, as a purchaser in the market.

In such cases, the previous owners were the main beneficiaries of apartheid because many of the privileges associated with apartheid policies would have been capitalised into the current land prices.

Secondly, apartheid policies benefitted much of the white population that had no direct interest in agricultural land.

This includes the providers of agricultural input, marketing and financial services and mining, manufacturing and service sectors which benefitted from the cheap labour and entry restrictions on black groups.

Failure to compensate the current landowners of farmland for the price of land would impose the cost of rural land redistribution on only one group of those who have benefitted from apartheid.

Thirdly, many current landowners are heavily indebted. Confiscation would mean that the loss would be shared between the current landowner and the lender concerned.

A large scale programme of redistribution would bankrupt many of the agricultural lending institutions.

If these institutions are needed to finance the new owners of the future, the new government would have to refinance their losses which relate to confiscation and bankruptcy of the current owners.

So, even if no compensation is paid to current owners, the state would have to "pay" at least for the recoverable farm debt of the farm it takes over.

Fourthly, failure to pay compensation will be politically unacceptable and will be seen as a first step to nationalisation without compensation.

Finally, external investors and South Africans with capital invested abroad are likely to react by reducing their investment in or repatriation of capital to South Africa.

Although there are legitimate reasons to tax the current landowners for their share in apartheid's gains, it would be better to tax the capital gains of the current owner associated with the compensation at market prices or to include payment of the current owners in a broad restitution levy on all wealth, the World Bank says.