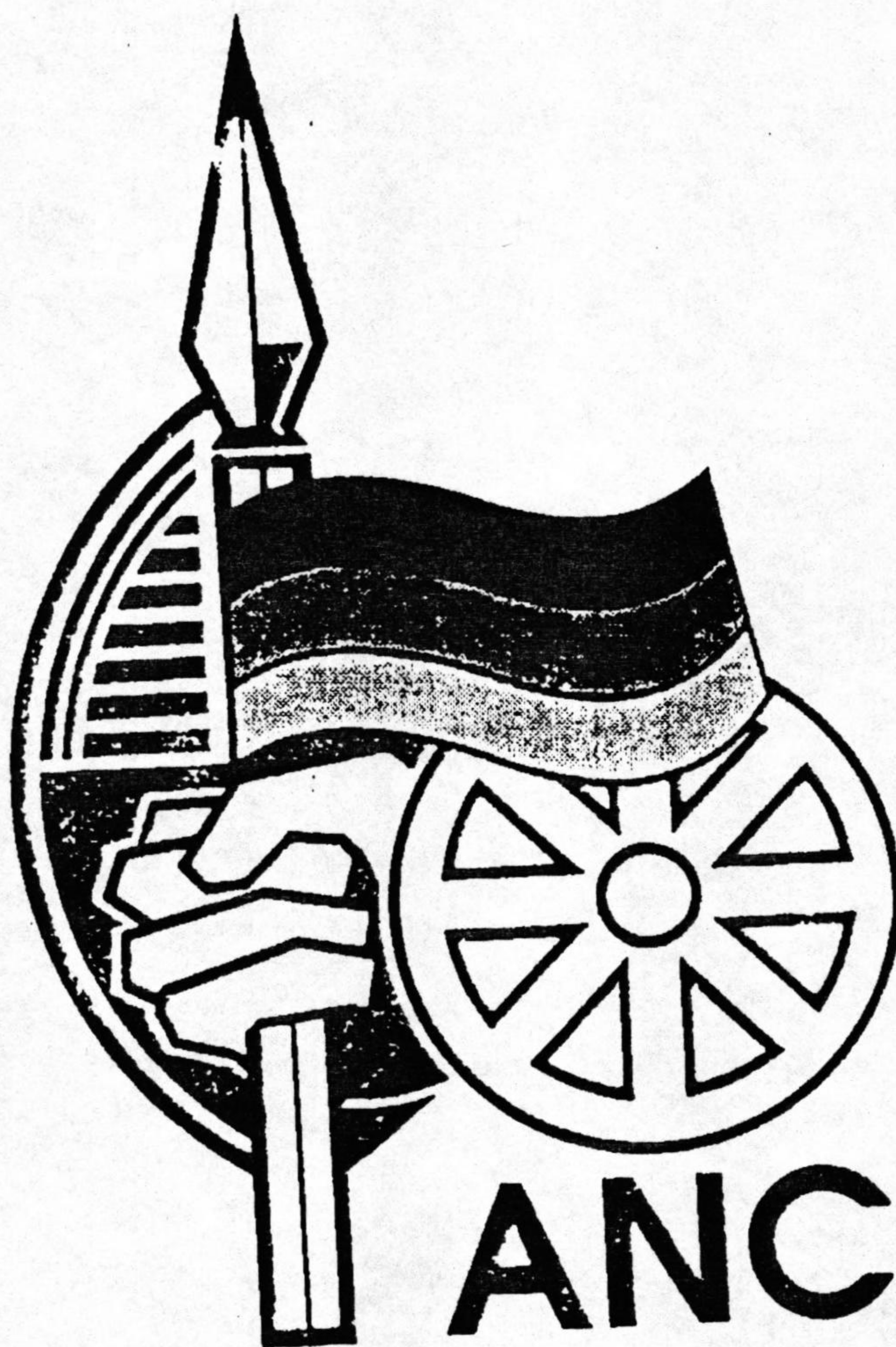


Discussing the Land Issue

A discussion document for ANC Land Commissions and branches

Produced by the ANC Land Commission



ANY WRITTEN REPOSSES WOULD BE WELCOME.
PLEASE NOTE: THIS DOCUMENT DOES NOT REPRESENT ANC POLICY.

Introduction

ANC Position on the Land Question

The Freedom Charter 1955

The Preamble of the Freedom Charter declares that "South Africa belongs to all who live in it, black and white . . ." The charter talks about land. It states:

"The people shall share in the country's wealth; The National wealth of our country, the heritage of South Africans, shall be restored to the people. . .

The land shall be shared among those who work it:

- Restriction of land ownership on a racial basis shall be ended and all the land re-divided among those who work it to banish famine and land hunger;
- The state shall help the peasants with implements, seeds, tractors and dams to save soil and assist the tillers;
- Freedom of movement shall be guaranteed to all those who work on the land;
- All shall have the right to occupy land wherever they choose;
- People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished."

In 1986 it was clear that a new democratic non-racial South Africa was not too far away. At this time the ANC began to work on a new constitution. A constitution is a legal document which sets out certain rules of government. The new constitution will scrap the racist rules of the past, and start making new rules to correct the injustices.

The **Draft Constitutional Guidelines for a Democratic South Africa** state:

"The state shall devise and implement a Land Reform Programme that will include and address the following issues:

- (1) Abolition of all racial restrictions on ownership and use of land;

(2) Implementation of land reforms in conformity with the principle of Affirmative Action, taking into account the state of victims of forced removals."

This means we need:

- A land reform policy which responds to the needs and demands of black South Africans who want farm land for different reasons. Some have lost land, some were unfairly forced to sell land, and some are unemployed and want to farm to make a living.
- Financial help for small scale farmers, women as well as men.
- The chance to get training, for women as well as men.

Today, our struggle has brought us a new balance of forces in the country. The government has to negotiate a transfer of power. But we need more than just the right to vote. Our land was forcibly taken from us by the colonial powers. So the return of our land is a necessary part of the return of our political power.

There is a burning land hunger in both rural and urban areas. We need land for housing and land to earn a living. Some farmworkers have further demands. They want job security, a house which is not tied to the job, a change in the way management deals with them, and, of course, better wages and employment conditions.

This discussion document looks at how the needs of the people can be met. Now we need our members to discuss this document as much as possible before our National Conference in June, so that all resolutions taken will take into account the input of our members.

In the first part of this discussion document we explain the reasons for land reform. Land reform is much more than just redistributing land. It means reorganising the way land is owned and used. The reasons for land reform are political, cultural and economic. The economic reasons for land reform are particularly strong.

The second part of the discussion document looks at the different ways people can get land. Within our liberation movement there are many ideas about how people get land. We will first

describe each one, and then give the reasons why one way may work better than another in the future South Africa.

There are also many different views on how land is used. Some people want land so that they can grow food and keep cattle. Some people want land which they can farm if they lose their jobs. Some people have strong feelings about certain land because it may be the burial ground of their forefathers. Others may want large farms which they can run for profit.

If we look at how land can be redistributed, we see a difference between what people need and what they may demand. We will also have to decide what role the chiefs will have in the allocation of land. In the bantustans undemocratic control over the land by some chiefs has caused many problems.

We know from our past that we must be vigilant and never stop struggling. Our demands are not yet won. We are on the eve of negotiations, but the de Klerk government is trying its best to make sure that the whites will keep as much of the land and wealth as possible. At the ANC's December Consultative Conference the *ANC Land Commission* was given a mandate to "*consult widely on a programme of action to rally the rural masses.*" We ask that you discuss this document and its proposals. We need to get feedback from you that can be shared with other regions. We also need to hear your ideas on how to take the land struggle forward in the next few months.

SECTION 1.

The need for land to be returned to the people.

1.1. Land, Political Power and the National Question.

The problems we have today began with the wars of conquest. Armed whites defeated Africans without guns. White settlers also used complicated treaties and contracts to trick Africans into giving up their land. Whites came to own most of the land according to the rules of the settler state. Many of

these whites had no means to farm the land, so black people continued to live and work as labour tenants and sharecroppers. In this way they held onto the land. Very few black South Africans had money to buy back their land.

But then black producers were stopped by law from farming their land. The white government passed many laws (The 1913 Land Act, the 1936 Land Act, the Prevention of Illegal Squatting Act.) These laws affected freeholders, sharecroppers and tenant farmers. They forced many people off the land and into reserves. Even black farmers who had bought land after the colonial conquest were forced off the land. The government did not respect their title deeds. Many of us know the terrible suffering of the victims of forced removals. Many of us have experienced this suffering. That is why we are angry when de Klerk tells white farmers, "Your title deeds are safe." We remember with pain the time when the title deeds of black South Africans did not safeguard their property rights: the government is rubbing salt into our wounds!

What is certain is that we must satisfy the strong need for land. It is one of the most important national demands. Only when black producers get land and workers are satisfied with their conditions of employment and wages, will we know that decolonisation in the countryside has at last begun.

1.2. The Place of Land In our Society.

When whites first arrived in our country, land did not change hands through buying and selling. Some communities moved around with their herds of cattle and gathered food. Other tribal communities lived together on the same land. In these communities, each family grew food on their own piece of cleared land, but their cattle were grazed on land used by all the families together. The more powerful families usually took control of the land with the better soil.

Control over the land sometimes changed hands according to who had the most political and military power. But in the end it did not matter who had the

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most power because this never changed the basic rights of the people who used the land to grow food and graze their cattle. They never lost their land.

Buying and selling land is not an issue between white people and black people. All over the world there was a time when land was not bought and sold. White people in Europe, Indian people in the Americas, black people in Africa all farmed land in their communities at one time. Land had great cultural importance.

The development of capitalism changed this. Even in our neighbouring countries, such as Mozambique, where the colonialists did not write many title deeds, people still began to rent out their lands. This happened as towns were built and people living there needed to buy food. Farmers grew food for sale. And those with the best land and cattle were able to produce the most food. They often wanted to increase food production, but they could only do this by renting land from poorer peasants.

In many countries the system of migrant labour stopped workers living in the cities. This meant they never completely lost their links to the land. In South Africa black families remember many ties to the land. These are on the communal lands, trust land and state held lands in the bantustans, as well as through freehold land, so-called "black spots", and labour tenants in the white farm areas.

Many of our people did not choose to leave this land. There is a strong belief in the right to claim back land. This belief has grown stronger now that we hope to win a non-racial democratically elected government quite soon. Some people claim land for historical reasons; it was stolen from them during the decades of forced removals. Some people claim land as their birthright; it was the home of their parents and grandparents- the only home they ever had. Some people claim land because they believe that as human beings they have a right to a place to live, whether this is in the towns or in the rural areas. It is for these reasons, these values and these beliefs that people have carried forward their struggles over land.

As a liberation movement we have to work out how everyone who has a claim can get land. There are many thousands of people who want land and it will not be easy to meet these needs. We need to sort out the confusion caused by centuries of dispossession. This may take some years. We have to draw up guidelines on how this will be done.

1.3. South Africa's Economic need for a land reform.

The population of South Africa is growing every year. In 1985 we were about 33 million people. By the end of the next twenty five years we expect a population of 60 million South Africans. Already there are not enough jobs for those who are looking for work. There are 5 million unemployed. As our population grows each year there are 250 000 more people looking for work.

Industrial growth is very important to the development of every country. But it is not possible for industry, with all its high technology and labour saving machinery to provide employment for the majority of those looking for jobs each year.

Looking at things from a national level we know it will never be easy to make a lot of money out of agriculture. We have only few rich and fertile lands. Much of our land is poor. Our rains are unreliable and there are not many more irrigation possibilities left. Some of the ways of commercial farming have damaged our soils. Land reform needs to consider how we can improved our farming methods, improve damaged lands and make sure that our children inherit a healthy land.

It is only possible to foresee an improved rural economy if we have a rural policy which gives practical support to people's demands for a productive livelihood, education, health care and basic services. It IS possible to create more jobs on farms and redistribute land so that more people are able to farm for themselves.

Many whites say that "if the blacks get land there will be hunger in the cities and food prices will increase". They say that "blacks don't know how to farm".

We have three responses. Firstly, they forget something that white farmers admit -which is that there are many white farms which are managed by black farm managers. Secondly, there is evidence that many black smallholders produce just as much and sometimes more than white farmers when they have access to the same production technology. And thirdly, there must be provision for training and support services. Otherwise the result will be that all people without skills or who are made redundant from a sector of industry are cast aside and will never work again.

In conclusion, land reform makes sense economically as well as politically. Through a land reform there can be better use of our natural resources and production can increase for the development and growth of our national economy. Agricultural reform, if managed with real commitment, offers a real possibility of more jobs or self-employment. Land redistribution and a change in labour practices is politically vital as one part of the national democratic transformation.

If a radical land reform does not take place we can expect an outburst of uncontrollable political anger. And as a country with a growing population we need to follow a strategy which creates most jobs. If a new government is not seen to be trying to answer the needs of the people then land seizures and civil unrest will haunt our future.

SECTION 2.

What are the ways in which land can be redistributed?

2.1.Land Rights

We need a new system of law which is based on land rights which go beyond current legal title. This should be based on values held by the majority of South Africans, including birthright, inheritance rights, and rights based on occupation and productive use of the land.

There will be many people who want either secure access to the land they occupy or to land they have been removed from.

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(a) Security for those whose access to land is through communal tenure.

The government wants a system of freehold title throughout the country. They have tried to privatise land in some communal areas. Communities, through a new system of rural local government, should have power to decide for themselves how land will be allocated and used in the interest of the individual and community. Following the repeal of the Land Acts we need a policy which ensures that existing rights are protected.

(b) Security for labour tenants.

Existing labour tenants who are fearful of losing their productive base must have their right to the land legally recognised through a new set of laws on land rights.

(c) Reparation.

The meaning of the word "reparation" is to make amends for wrongs done in the past. Thousands of people feel they were wronged. These include those who were removed from their land or forced to sell it against their will because of apartheid laws. There will have to be some form of reparation to the people who were unfairly removed from their land.

(d) Redistribution for the landless and poor.

Those who are poor, who wish to farm for their livelihood, will demand access to land. The most needy are those who have no one employed in their family, who are destitute. But other families will need land because the wage earner does not earn enough to enjoy minimal living conditions.

(e) Business Entrepreneurs.

There will be many black South Africans who want a farm as a profit-making business. State assistance must distinguish between people, black or white, who do have enough capital to purchase land and to start farming, and those who would never be able to get land except with state help. The state could help in various ways. It could give a land grant, it could provide land for tenants at affordable rents, it could give credit to buy or rent land.

2.2. State Action to Secure Land Redistribution

The ANC wants a real land redistribution. It wants to change the situation that we have now in which 80 percent of the population live on 13 percent of the land to one in which all South Africans have equal access to land. Until very recently the government has said that removing racial restrictions on land ownership and allowing people to buy land on the free market will be the method through which blacks can get land. We do not accept this proposal as there is no way moneyless people will get access to land. For this reason we believe that a carefully planned state intervention is required.

1. Land Claims.

The setting up of Land Claims Courts is one way of state intervention that is being discussed by the ANC. There are two kinds of needs. One is to deal with historical dispossession and the other to respond to people's need to have a place to live and farm.

The tasks of a Land Claims Court would be to listen to peoples' history (black or white) about their claim to land. The court would have certain guidelines to judge who has the best claim to a piece of land. These guidelines would not only take account of title deeds but give respect to birthrights, inheritance over generations, forced relocations, historical claims, ancestral gravesites, present occupation rights, the need to have a place to live and farm.

The success of Land Claims Court will depend on peoples' organisation on the ground in every region of the country. We need clear decision-making guidelines to make sure that the process will be quick with the minimum of bureaucracy and expense. If people are not organised the courts will best serve the interests of the rich, the powerful and the educated.

Once the right to land is established for an individual or a group of people the state has to assist in carrying out the decision. It will have to inform the person who has title deeds that according to the values of the Claims Court they do not have the right to remain on that piece of land. Perhaps another

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piece of land can be offered as compensation. It may be that the state must get the land in order to give it to the successful claimant(s).

How the State can act to get land for redistribution?

(1) The state can ban the private ownership of land. This means that land would no longer be bought and sold. This does not mean that the occupants on the land have changed, but suddenly the state has become a landlord - this is the school book meaning of nationalisation. This is what happened in Mozambique. And once the State is the landlord it can easily decide who has a right to farm and where.

(2) The State can take hold of land, with or without compensation. Once the state has the land then several things can happen:

1. **The State can give the land in the form of land grants to particular categories of people (for example returning land to previous blackspot owners or evicted farm workers.**
2. **The State can rent out the land to tenants as individuals or groups of people.**
3. **The State can allow people to buy the land as individuals or co-operatives possibly using special terms of credit.**

There has been a lot of discussion on nationalisation and different ways of holding land. Some people think that the answer to the land problem is to nationalise the land. But this is not the easy solution that we used to think it was. In Mozambique the government nationalised the land but people did not have tools, seeds, and skills to use it properly. In the Soviet Union, land which was state-owned and has been farmed collectively is being redistributed to individuals because people have won their popular demand for land to till as their own.

The following points should also be discussed further:

1. **Putting an end to high land prices.**

Some people want the state to own all the land because this will end speculation in land prices. Other people say that this speculation can be ended in other ways by state intervention in the land market to check speculation and make sure the price of land is never above its productive value. Productive value means the price at which you can afford to pay back your loan to buy the land if you farm it efficiently every year.

2. Security of tenure.

For other people the real issue is one of security. Some people think that there is no guarantee that state ownership offers long term security. The other factor is a social one that people want to hold land as their own. Even in the Eastern European countries where land was nationalised for decades people are now trying to get their own plots of land.

3. Possible sanctions

Some people say that if land is nationalised the banks will be in crisis and foreign investors will be scared off. They take their money out of the country. We might also be faced with international sanctions. The very same governments who refused to lend money to the white regime because of apartheid laws could also refuse to lend us the money we need when we have a non-racial democratic government in place if they don't favour our policies, such as land nationalisation.

Compensation: a bitter pill to swallow?

Compensation is a problem. Whites want the market value of their land; blacks may claim for decades of loss of income and restoration of the land. Whatever compensation is given will be paid for by the entire society through the taxes they pay. Money paid to landowners in order to take over the land will be money which could have been spent on health, education, housing or any other project.

There will have to be a process to deal with compensation claims of both blacks and whites. With regard to the white farm-owners there are several considerations to take into account:

(i) The first consideration is that the payment of foreign exchange for compensation is totally unacceptable.

(ii) There is a debate about whether all white farmers should receive compensation. There may be certain landowners who can afford, and might be willing, to donate the land or accept modest compensation. Here we have in mind the large companies such as Anglo American. Some farmers may disqualify themselves because (a) they do not use the land and have abandoned it, (b) they are guilty of human rights violations on the farm (c) they refuse to abide by the labour laws.

(iii) Since society bears the cost of compensation, society must decide how to do it. Prompt cash payment will burden our state budget, limit the speed at which land can be redistributed and contribute to inflation. Compensation can be tied to certain conditions, if landowners get money in the form of bonds which they had to use to invest in new industries. Our suggestion would be that compensation should be paid out in part immediately and the rest over a ten year period. One proposal is to give one quarter in cash, one quarter in bonds to be cashed in ten years time, and half in bonds to be invested in South African industries.

4. Land care

Another argument is about care for the land and productivity. On state owned land where tenants farm land it is noted that because land does not belong to those farming on it there is less care for the soil.

WHILE WE ARE OFFERING ALL THESE DIFFERENT VIEWS FOR FURTHER DISCUSSION THERE ARE CERTAIN POINTS WHICH NEED TO BE EMPHASISED:

A. We must keep in sight our real aim of political power and economic development which includes getting the land back. Exactly how we get the land back needs a strategy in which land is redistributed without too much disruption of production and which does not cost too much.

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B. There must be flexible forms of ownership of land. Some people want to own land in their own name - this is the only way that they will feel secure. Some people want to own land on a communal basis and are against privatisation of presently held communal lands. Workers may want to take over farms to form cooperatives, joint ventures or state farms. Therefore the ownership forms in a mixed economy must allow for diverse forms of ownership. What do you think of this?

C. There must be affordable land

For those who are on the land, as tenants or workers, the issue is a legal one of securing rights. For those who want reparation or belong to the landless unemployed the state needs to intervene to make land available. But not everyone needs state help to get land to farm. Perhaps the state's role should be to create an affordable land market so that those who do not need state help can buy their land.

D. Land reform needs to take place at a careful speed. This speed should not only meet demand for land by rural people but also allow the government to give the proper support services and training so that the land can be used most productively.

E. We may encourage but cannot impose collective ownership and production. Many people want land to call their own, others may want to farm as a cooperative. The ANC policy of a mixed economy allows for all forms of production, individual, community, cooperative and state farms.

F. Affordable land reform is the real issue in both money terms and political terms. Zimbabwe agreed that it would buy land from the white farmers at market prices which it would then give back to the most needy people. Rich blacks would buy land for themselves. Ten years later the Zimbabwe government has decided it is impossible to meet the needs of the people in this way. The free market land prices are high as are the costs to resettle people on the land. They have decided to change their laws so that they will buy land from whites at a price decided by the state.

G.Land reform can be assisted by using a land tax. The purpose of the tax is to make sure that land is farmed productively. Otherwise it costs nothing to leave land idle. And as a country we want our resources to be used properly. A progressive land tax means that those who own more land pay more and should encourage large landholders to giving up or selling land.

H.What happens in the negotiations is important to the resolution of the land question. We cannot afford a constitution and bills of rights that does not give the new state the power to intervene in the land market and property rights in land. Without state intervention it will be economically impossible to carry out the land reform we need to create jobs, improve productivity and satisfy political demands. The way property rights are defined in the constitution and Bill of Rights (and connected legislation such as a Land Acquisition Act) create critical conditions which will greatly affect the land redistribution process. It is important for the people of South Africa to discuss this matter and be very clear about the way they would like land to be owned and used in our country.

In conclusion, the Land Commission of the African National Congress, in its search for a just and growth-oriented policy on land reform and rural and agricultural development in a new non-racial, non-sexist and democratic South Africa, believes that:

1. The Constitution and Bill of Rights must give powers to the state:

(i) to establish a Comprehensive Land Reform Act. This Act would include legislation enabling the state to get land for whatever purpose in the public interest. More specifically, it would allow the state to implement affirmative action programmes, to get land where it is needed, according to an economic formula based on productive value rather than speculative free market prices.

(ii) to establish a Land Claims Commission to set up fair procedures and criteria for the adjudication of land claims. These will apply equally to all South Africans and will reflect the diverse concepts of land rights existing in

our country. Once established the commission would then receive and hear applications for Land Claims.

(iii) to recognize diverse forms of tenure and systems of production.

2. The rights and protections extended to rural workers under labour legislation will apply with special consideration to problems pertaining to those living and working on farms.

3. Rural and Agricultural productivity must be stimulated through government-sponsored programmes of affirmative action. These must provide non-racial and non-sexist access to infrastructure, resources, credit facilities, extension services, research and training.

4. Provision should be made to meet the need of urban people for access to land for housing as well as for allotments, market gardens.