

**Submission by COSATU and NEHAWU on  
the Recapitalisation and Development  
Programme, 02 February 2015**

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**COSATU**

**Submitted to the:**

**Portfolio Committee on Rural  
Development and Land Reform,  
National Assembly**

## 1. INTRODUCTION

COSATU and its affiliate union, the National Health, Education and Allied Workers' Union, NEHAWU, welcome the opportunity to make a submission on the Department of Rural Development and Land Reform's Recapitalisation and Development Programme due to its strategic importance with regards to land restitution and reform.

As land reform is a very sensitive matter, COSATU and NEHAWU would like to bring the following concerns to the attention of the Portfolio Committee. Whilst the Programme has as its objectives some important progressive objectives, COSATU and NEHAWU have several key political concerns with regards to it.

## 2. POST-APARTHEID SA AND LAND REFORM CHALLENGES.

### 2.1 MARKET BASED PRINCIPLE

The previous attempts by government to use market mechanisms in land reform strategies have failed. Most farmers or landowners have used the "willing buyer-willing seller" principle to challenge the state's redistributive policies (Hall 2010; Ntsebeza 2010). These individuals over-valued their land, and thus making it impossible to accelerate the process of land acquisition. Moreover, the willing buyer and seller approach is based on the willingness of current landowners to sell. This gives the current owners – which are mostly white – the right to reject any attempts to promote land redistribution. (Hall 2010 98-99)

The market based approach has also made it difficult to budget for land reform. There is a huge difference between the grants allocated for land reform and market prices (Cousins 2010:223). This principle also ignores the realities of the capitalist economic system which limit the state's role in price determination (Ntsebeza 2010). COSATU and NEHAWU have always opposed the usage of this principle; and the slow progress on land reform vindicates the federation's position. Hence we welcomed the ANC 53<sup>rd</sup> congress resolution which states that the government should **"Replace willing buyer willing seller with the "Just and equitable" principle in the Constitution immediately where the state is acquiring land for land reform"** (ANC 2012).

The just and equitable principle is based on section 25 of the constitution which allows the state to expropriate land. This expropriation must involve compensation to the former landowner. According to the constitution: **"The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected having regard to the following circumstances— (a) the current use of the property (b) the history of the acquisition (c) market value of the property (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property and the (e) purpose of the expropriation"**.

However, the usage of this principle presents the following challenges. First, compensation will still be based on prices determined by the market. This effectively

means that efforts aimed at expropriation can be impeded by price inflations. Secondly, it is ahistorical because it reduces historical acquisition to the current owner. This view of history does not take into account the systematic dispossession of land by colonialist. More importantly, this compensation ignores the super exploitation of cheap black labour in the commercial farming areas (Ntsebeza 2010).

## 2.2 POOR SUPPORT FOR LAND REFORM BENEFICIARIES

In 2012 it was estimated that more than 70 % of the redistributed land had become unproductive. This alarming figure highlights the poor support given to beneficiaries (COSATU 2012:29). This is exacerbated by the lack of synergy between supports mechanisms at different levels of government Cousins 2010: 223). More importantly, the support initiatives in the post-apartheid era have ignored the negative effects of neo-liberalism. Government has supported the deregulation of the agricultural sector and trade liberalization. These policy choices have made it impossible for small scale farming to prosper (Hall 2010: 100). In sum, trade and industrial policy must support the DRDLR Comprehensive Rural Development Plan.

It is impossible to achieve successful land reform without creating clear mechanisms to support new farmers. The DRDLR has attempted to address this challenge by tabling a strategic plan which will provide infrastructure, finance, new technologies and increased access to markets for new entrants. However, this strategy fails to address the linkage between the agricultural and petro-chemicals sector which provides crucial inputs. Moreover, it plays minimal attention to the intersecting relationship between agrarian reform, trade and industrial policy. Hence COSATU's Growth Path (2010) states that: "A key element of our growth and development path is the maintenance of adequate **balance between industrialization on the one hand and agriculture and rural development on the other**". And it proposes the following:

- Provision of affordable **inputs to agriculture**
- Strengthening the links between **agriculture and agro-processing**

## 2.3 LACK OF STRUCTURAL RECONFIGURATION

Previous strategies on land reform have over-emphasized transforming the racial patterns of ownership in the sector. These interventions are progressive, because they compliment the goal of deracialising the economy. However, the increase in black ownership needs to be complimented by the restructuring of the agricultural sector. It is dominated by large-scale commercial farms that supply most of the country's food and agri-products (DRDLR 2013:17). According to the DAFF (2013) Economic Review "***the gross income of producers for the year ended 30 June 2013 amounted to R178 050 million, compared to R161 704 million the previous year—an increase of 10.1%. The increase can be ascribed mainly to increases in prices that farmers received for their products***".

The Department of Rural Development and Land Reform (2013) correctly notes that: "***While it is true that a number of smaller commercial farms in both freehold and communal areas are struggling to survive, the remaining medium- and***

***large-scale farms (which make up approximately half of the sector) continue to accumulate significant profits”.***

The poor sustainability of small scale farming in South Africa is also caused by trade liberalization and minimal state intervention. Government has implemented liberal macro-economic policy which exposes small farmers to competition from larger entities (domestic and foreign). Moreover, the state has not provided sufficient structural policy support to small scale farmers. The apartheid government provided farmers with subsidies, concessional financing, and marketing support services. In other words, it adopted an interventionist approach in the agricultural sector. This all changed after the transition with the dominance of liberal economic theory. In sum, there will be no agrarian revolution without transforming macro-economic policy.

Research indicates that the accelerated development of small-scale farming is more conducive for creating employment, food security and rural development. In most developmental states the promotion of small holder farming was integral for agrarian reform and industrialization. The “**productive use of state-owned land by co-operatives**” becomes central in this regard.

#### **2.4 SUPER-EXPLOITATION OF FARM WORKERS.**

Farm workers continue to be exploited by employers and form part of the most marginalized section of the country’s workforce. According to Department of Rural Development and Land Reform, “***the commercial farming sector houses the lowest paid workers in the formal economy, with black agricultural workers, especially women, receiving lower wages than white co-workers***”( DRDLR 2013:15). The minister issued a new sectoral determination in 2013 to address this challenge. However, this is not sufficient because the increases don’t match the socio-economic needs of farm workers. Research indicates that the new wages are not sufficient for covering the basic nutritional needs of workers. Moreover, most of the wages are used to cover the costs of accommodation. In addition to this, farm workers continue to be evicted illegally and this has negative socio-economic effects.

Another challenge is the increase in the number of atypical forms of employment which include short term contracts. The working conditions on the farms are also poor. Occupational Health and Safety standards are continuously ignored by employers. Thus, we should propose that the protection of farm workers’ rights should be one of the key pillars of land reform policy.

#### **2.5. FAILURE OF CURRENT EMPOWERMENT INITIATIVES.**

The previous empowerment initiatives (FES: Farm Equity Schemes) have not provided sufficient benefits for farm workers and dwellers. This is caused by the following key factors. First, the relationship between the two parties is not balanced. The established owners have substantive power; whilst the beneficiaries have nominal positions on the board of enterprises. Secondly, these initiatives have not addressed the land question. They normally focus on obtaining shares in enterprises. The FES schemes do not place sufficient emphasis on land ownership and security of tenure.

## 2.6 LIMITED SCOPE OF PREVIOUS LEGISLATION

The Extension of Security of Tenure (EST) and Labour Tenants Acts have not addressed this issue sufficiently. This has been caused by poor implementation and the lack of capacity in the department. According to Cousins and Hall's (2011) estimates, the number of citizens evicted from commercial farms by 2004 exceeded 6 million. This figure is alarming, especially when one considers the fact that there are two pieces of legislation which are meant to govern tenure. The DRDLR tabled the EST amendment act in NEDLAC in April 2014. COSATU participated in the task team and raised the following key arguments:

- That government should introduce the procedural safeguards outlined in the 2010 draft bill.
- Supported Government's proposal of establishing a Land Management Board and Land Management Committees to deal with the processes of mediation and arbitration.
- Labour argued that owners are primarily responsible for maintaining dwellings; but occupiers should have the right to make minor improvements when necessary.

An alternative option would be to support the resolution of the 2005 Land Summit which placed land ownership at the centre of tenure. It states that government should work on:

***“Amending legislation and improving implementation capacity to ensure tenure security, with a view to enhancing the security of tenure of farm dwellers and other vulnerable groups and complimenting this with medium to long term strategies that give farm dwellers homes and production land of their own”.***

The Land Acquisition Strategy does not afford farm dwellers or workers sufficient opportunities to access land. It has rather focused on ***“black commercial farmers or a range of black south Africans in need of land for agricultural production”***. In addition this, the rights of farm workers and dwellers are not protected once land has been redistributed or returned to indigenous owners. The legislation implemented in the post-apartheid era has mainly focused on restitution; rather than implementing the principle contained in the freedom charter which states that: ***“the land shall be shared amongst those who work it”***. Restitution will not resolve the underlying socio-economic problems. It focuses on formal rights outside the socio-economic context. Moreover, restitution has mainly produced positive results in urban areas, and usually involves transfer of cash rather than land.

## 2.7 COMMUNAL TENURE AND TRADITIONAL LEADERS

One of the key challenges in post apartheid land reform is the role of traditional leaders in administering land redistribution. Most authorities have abused their powers and deprived citizens of their constitutional right to access land. The chiefs

and traditional councils have unchecked authority which undermines access to land (Claasens 2014). COSATU noted this trend and hence the federation resolved to:

***“To reject the proposal in the Green Paper for communal tenure to be treated separately from leasehold, freehold and precarious tenure and outside of the land reform programme. Residents of former homelands and Bantustans are equally hungry for land and redress (COSATU Resolutions 2012)”.***

The DRDLR is currently working on a new version of the Communal Rights Act. The last version was enacted in 2003; however, it was declared invalid by the constitutional court in 2010. This decision was informed by the following arguments. First, communities raised concerns that it denies them access to land by giving traditional councils too much power. Secondly, some traditional authorities have used customary law to restrict female's access to land.

Thirdly, some communities favoured a more decentralized form of land redistribution. These individuals argued that clan and family networks are more suitable for land administration. Fourthly, the institutional mechanisms for holding traditional authorities accountable are very weak. This means that these leaders can make decisions on land use without consulting community members. This is phenomenon is prevalent on the African continent where traditional leaders have entered into agreements with multinationals or domestic capital without any interaction with members of the community (Claasens 2014).

In light of this background we propose the following:

- Communal Tenure should not be treated separately
- Improve females access to land and agricultural support
- Residents in communal areas should be involved in all major decisions making processes on land use
- Defend the rights of citizens living in communal areas, especially the right to access land.
- Create systems of enhancing accountability within the existing traditional authority framework.

### **3. CONCLUSION**

COSATU and NEHAWU remain firm supporters of the need for radical land reform as a matter of urgency and the Department's efforts to achieve this fundamental objective. However we remain deeply concerned that notwithstanding the Department's intentions:

- The RADP remains cost inefficient;
- Has inadvertently seen funds diverted towards it and away from land redistribution; insufficient support from the Department of Agriculture, Forestry and Fisheries for emerging farmers and land reform beneficiaries;
- The imposition of unwanted strategic partners as a precondition for state support (given that DAFF won't support land beneficiaries out of CASP except old LRAD projects) ; and
- The extent of resource capture by a relatively small group of strategic partners, who are essentially farming state subsidies.