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## BUILDING A CONSENSUS ON LAND REFORM: AN INSTITUTIONAL APPROACH

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### Abstract

This paper examines areas of convergence and divergence between the Government and the ANC on the land reform programme of the former. The purpose is to identify conditions required to build a consensus on land reform among major players in the country. The paper finds no fundamental non-negotiable issues between the two. It advances three conditions to build consensus. First, the Government should involve the ANC in land reform. Second, this land reform should be of an interim nature. Lastly, Black people should be the main beneficiaries of land reform. The paper ends by drawing conclusions that are relevant to all actors involved in the debate on land reform.

### 1. Introduction

This paper compares Government proposals for land reform with those of the ANC within the current process of transition to a new social, economic and political order. Points of convergence and of divergence between the views of these two actors are identified with respect to policies of rural land.

The purpose is to explore the prospects for a process of building a consensus on land reform. The argument is limited to the views of the Government and the African National Congress (ANC), and to rural land reform issues, as these have been the most widely documented.

### 2. Method

The tables below reflect a subjective weighting of the degree of convergence and divergence between the Government as expressed in the White Paper on Land Reform of 1991 and the ANC in the Draft Land Manifesto for the National Conference of July 1991.

This was based on the prior identification of major issues of principle, policy and strategy for land reform, and an analysis of the documents. Although essentially subjective, this method provides a true reflection of actual positions of these parties.

The relevant documentation shows the extent of flux within the views of these parties. Weighting is for this reason given to both convergence of views and "possible" convergence, as well as to divergences and "possible" divergences.

"Possible" convergences represent a subjective view of the stability of consensus. "Possible" and actual divergences, on the other hand, reflect a subjective view of the instability of consensus and, in extreme cases, its complete absence.

The weighting ranges from 1 to 5. The former denotes "Very Strong" and the latter "Very Weak". In between 2, 3 and 4 indicate "Strong", "Fair" and "Weak" respectively.

This method allows for a dynamic tracing of a range of tendencies and directions, rather than of the "fixed" positions of these parties.

### 3. The stability of consensus

Three categories are assessed for the stability of consensus in the order of their appearance in the White Paper. These are land principles, land policy and land strategy.

### 3.1 Land principles

The White Paper outlined five principles: land as the basis of social life; access and use of land; meeting land hunger; land use to benefit all and land as the common resource.

Table 1: Convergence and divergence between Government and ANC on land principles

Principle	Possible			
	Converge	Converge	Diverge	Diverge
Basis for social life	2	4	1	3
Access and use for all	2	4	1	3
Use to benefit all	1	2	4	5
Meeting land hunger	2	4	1	3
Common resource for all	1	2	4	5

Table 1 reveals a strong consensus (a score of 2) on land as the basis of social life. The stability of this consensus is weak (4), however, because of a very strong instability factor (1). The net effect is that a weak stability factor of consensus succumbs to the strong instability factor, thereby inducing a fair (3) tendency towards divergency. The same analysis applies to the two principles of access and use of land, and the meeting of land hunger.

The two remaining principles are cases of stable consensus: a very strong convergence and strong possibility of convergence, and a net effect of weak instability on consensus. This table seems to indicate that a legitimate land reform requires stable consensus on all principles. The instability of consensus that exists at the moment arises from the historical legacy and current

socio-political realities. It also points to the harm that can be caused by Government decision taken in isolation. This would impact on the legitimacy of land tenure institutions, since it would be seen by the majority of the people as perpetuating apartheid practices.

### 3.2 Land policy

Table 2 below reveals a strong stability of consensus on all eight land policy issues. Consequently, there is a stronger tendency towards convergence. Fair factors of instability on tenure reform policy are due to divergences on the scope and restrictions set by the Government on this issue.

Government tenure reforms are in the opinion of the ANC only restricted to homelands. Only three tenure systems are recognised: freehold, tribal and state land tenures. Thus the aspect of cooperative and (non-tribal) communal tenure is excluded. Similarly, the ANC objects to restrictions placed by the Government on land purchase by non-tribal communities. It is also opposed to restrictions placed on the buying of land by tribal communities.

From the foregoing, the ANC would object to the protection of land title which excludes non-tribal land holders and regards communal land title as inferior to freehold. Despite these reservations, there seems to be a strong stability of consensus on land policy between the Government and the ANC. This point further emphasises the need and importance of consultation.

Table 2: Land policy convergences and divergences between the Government and the ANC.

Policy	Converge Possible Possible Diverge			
	Converge	Possible	Possible	Diverge
Tenure reform	2	1	3	5
Tribes to buy land	2	3	4	5
Title protection	1	2	3	5
Aid land purchase	1	2	4	5
Conserve land	1	2	4	5
Raise land capacity	1	2	4	5
Free rural potential	1	2	4	5
Provide urban land	1	2	4	5

### 3.3 Land strategy

A strong instability of consensus is revealed on land strategy. The net effect is that the tendency is towards divergence. Table 3 shows this to be particularly the case with restitution, redistribution, compensation, "Black spots", tenure systems, and homelands.

Restitution entails the redressing of injustices of past land policies as demanded by the ANC. This was at first rejected by the Government, but was later modified to include "deserving" cases. The Government also rejected the call by the ANC for

land redistribution. The only land redistribution it was prepared to countenance was that which would occur via the land market mechanism, despite the racially skewed nature of land ownership.

Table 3: Convergence and divergence between the Government and the ANC on land strategy.

Strategy	Converge	Possible	Possible	Diverge
	Converge	Diverge	Converge	Diverge
Restitution	5	4	1	2
Redistribution	5	4	3	2
Compensation	5	4	3	2
Land Market	2	1	4	5
Tenure Systems	5	3	2	1
Homelands	5	3	4	2
"Black Spots"	5	4	2	1
State Intervention	5	1	3	2

Given its rejection of state-induced land redistribution, the Government almost forecloses the issue of just compensation advanced by the ANC. The question of righting the wrongs of the past and not building future ones is the point at issue here.

Neither party advocates total state intervention or the unfettered reign of market forces. Rather, both concede some role of the state and market forces within some kind of a mixed economy. At issue here is the type and extent of public intervention in the economy.

On the issue of homeland constitutional and administrative structures, the Government contends that homeland structures must be negotiated at the constitutional conference. In the meantime, the Government promised that the land reform in the homelands would be implemented after the consultation and approval of their governments. For the ANC, the removal of Land Acts has to be accompanied by the re-incorporation of homelands.

The Government recognises three forms of land tenure systems: state, tribal and freehold tenure systems. It also views tribal tenure as inferior, discourages and seeks to eventually eliminate it. However, it concedes that communally owned land can be established outside homeland areas under certain rules. As stated before, the issue is the dismissal by the Government of other forms of access to land.

Regarding black rural areas outside homelands, the Government believes that these areas will eventually become freehold. In other words, hitherto "black spots" will be incorporated into the present white rural tenure system. This, however, ignores the question of how black rural life is to be reconstructed. The land market is the only issue of stable consensus. The weak instability arises around the debate of whether the market should be given free reign over land allocation and utilisation.

### 4. Conditions for building consensus

From the previous section, it is clear that consensus building will be determined by: how land reform is introduced; what its major objectives are; who are its beneficiaries; how parties are drawn into the process; how much time is given to open debate; and how issues of convergence are sought in a give-and-take process to resolve divergences.

A broad policy guideline to that end is suggested in Table 4. On the one hand, building consensus on land reform has to focus on reducing high numbers on the side of convergences to increase possible and actual consensus stability on land reform issues. On the other hand, raising low numbers on the divergences side to weaken possible and actual instability of consensus.

Table 4: Policy objectives for consensus building on land reform

Policy Objective	Converge	Possible Converge	Possible Diverge	Diverge
	Reduce Low	High to Numbers	Raise To high	Low Numbers

Three policy implications emerge as proposals from this general guideline. The first is that the Government needs to involve the ANC in land reform. The second is that the present land reform has to be of an interim nature. The last is that Black people need to be identified as chief beneficiaries of land reform.

#### 4.1 ANC involvement

The first proposal is that the Government should solicit the input of the ANC in the debate on land reform to impart legitimacy to the process of land reform. If land reform is to meet its stated objectives, it requires a process which conveys institutional legitimacy and addresses the accumulation crisis.

#### 4.2 Interim land reform

Since the ANC participation is conditional, the second proposal is that the objectives and scope of the land reform should be of an interim nature. Its main aim should be to prepare the ground for a long-term land reform process for the new order.

It should pursue three specific objectives. First, to remove the immediate backlogs of apartheid. Second, open the white rural and agricultural environment to black people to create a new non-racial rural environment. Finally, to modify present and, where need be, set up new institutional structures and processes in the interim to facilitate the emergence of a new order.

#### 4.3 Black people as beneficiaries

The third proposal is that the interim land reform should identify Africans in particular as the main target and beneficiary group. South Africa must come to terms with its past in order to build its future.

#### 5. Conclusions

This paper has analyzed the land reform debate from the perspectives of two of the main actors. However, the real actors are the rural people and their representation through political parties, organized agriculture, community based organizations etc. Although the analysis was narrow in focus, its conclusions can be broadened to include all of these actors.

In the light of this analysis, main actors need to concede the following to build consensus on land reform. Firstly, land reform entails constitutional and historical problems and its resolution is an integral part of the latter.

Secondly, different experiences with the land issue which conditioned the various actors to have different constituencies and perspectives need to be acknowledged in order to build a unifying experience of a new common society.

Thirdly, land reform is a national issue and must be addressed as such to resolve it in a just and lasting way.

Fourthly, main actors need to directly engage each other on land reform, not indirectly past each other as is the case today.

Lastly, areas of consensus and possible convergence should form the basis of negotiations for interested parties to resolve divergences and build a new rural culture.

#### References

ANC. (undated). Draft Land Reform Manifesto for the National Conference, The Land Commission, Johannesburg.

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