



**National African Farmers Union  
South Africa**

**NATIONAL AFRICAN FARMERS UNION , SOUTH AFRICA (NAFU SA)**

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**UFS THOUGHT – LEADER  
SERIES ON LAND REFORM  
Presented by: Motsepe Matlala  
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# National African Farmers Union South Africa

## NATIONAL AFRICAN FARMERS UNION , SOUTH AFRICA (NAFU SA)

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- Strategic Intent:** *“To feed South Africa, Africa and the world”*
- Our Philosophy:** *“Zero tolerance to non conformance to legal requirements and any form of corruption”*
- Vision:** *“To become an innovative reputable and sustainable leading farmer representative body in SA & beyond, to support and partner with our members through communities and cooperatives in a competitive agricultural environment to satisfy our members true needs to access profitable markets, affordable and diverse food, and to maximise the cost effective yields on all crops, vegetables and livestock and, to increase employment and develop entrepreneurial agricultural opportunities and, to promote strong sustainable and meaningful commercial agricultural businesses”*
- Mission:** *“To provide cost effective sustainable agricultural models to all farmers, and facilitate a conducive environment for implementation”*
- Strategy:** *“To research, plan, build and resource all the necessary support structures to reduce the risks and create viable and sustainable farming entities”*

# **Introduction: Broader Context to Land Expropriation without Compensation (LEWC)**

- We are a black-led agricultural union that was created to give a “home” to and represent the aspirations of those established and emergent black farmers who had been dispossessed, disadvantaged and excluded from mainstream agriculture.
- As such, NAFU SA welcomes the ANC’s December 2017 resolution to pursue LEWC and Parliament’s subsequent adoption of the Motion on LEWC in February 2018.
- NAFU believes that the Motion is a major step towards addressing the slow pace and high costs of land redistribution.
- Land restoration is key to NAFU’s imperative of ensuring the agricultural sector is equally accessible to all farmers, irrespective of their race or type of land tenure that they produce under.

# **Introduction: Broader Context to Land Expropriation without Compensation (LEWC)**

- This presentation gives the rationale for NAFU SA's stance on LEWC and our proposals in this regard.
- The ANC's resolution on LEWC and the Motion has sparked intense debate throughout South Africa.
- Many important considerations are being raised in the debates surrounding land nationalisation and broader LEWC:
  - There is notable support for amending the Constitution to enable LEWC, with many advocates viewing the current Constitution's entrenchment of existing private property rights as a fundamental hindrance to land and agrarian reform.
  - There is also significant opposition to LEWC, largely from large white farming and agribusiness organisations, financial sector representatives, commercial and industrial property associations, and traditional leadership bodies.

# **Introduction: Broader Context to Land Expropriation without Compensation (LEWC)**

- The High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change (HLP) in its November 2017 Report holds that the Constitution as currently constituted does not hinder effective land and agrarian reform, and does not recommend amendment.
- The HLP also proposes that Government repeal or substantially amend the Ingonyama Trust Act (ITA), dissolve the Ingonyama Trust Board and take back the land placed under administration of the Ingonyama Trust.
- The HLP recommends that the land, assets, liabilities, rights and obligations be subsequently transferred to the State to serve as custodian on behalf of the residents of Ingonyama Trust Land.
- Certain traditional leaders have expressed vehement opposition to LEWC such as King Goodwill Zwelithini who is the sole trustee of Ingonyama Trust Land.
- The King has made strong statements regarding the willingness of traditional leaders to fight for their land.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- Recently King Zwelithini stated:

*"The issue of land is a very sensitive one for the Zulu people, as it is more than just about land. It is about food security, housing and political economy, among others, and it is for this reason that Zulus will not be pedestrians that will sit and watch while major decisions about their ancestral land are made."*

and

*"The truth is that this nation that we fought for so hard, that we were arrested for, that we died for, today we are being punished. They are saying we must be stripped of what we have. Where must we go?"*

- The King called on Zulus to increase their donations to the trust to create a fund to fight any move to de-establish the trust, and ushered admonitions of a "clash of nations" if the Trust is dissolved and/or LEWC taken forward.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- We urge Government to introduce appropriate reforms to address land governance in communal areas, however in a manner that is less adversarial.
- Otherwise, tenure reform will not be effective in many rural areas considering the responsibilities of our Traditional Leaders – who are custodian of our culture and land.
- NAFU SA emphasises that we must deliberate together on how to strike a progressive and complementary balance between the obligations and provisions outlined in Chapters 2, 3, 7 and 12 of the Constitution.
- NAFU SA wholly supports LEWC, but we disagree with the HLP's position on the dissolution of the Ingonyama Trust.
- While we acknowledge that some traditional authorities have used land as a key instrument of political, economic and social control in some areas, and there is urgent need to address undemocratic land allocation and governance practices of traditional leaders, we still support the institution of traditional leadership.
- We aver that any new land policy or law introduced by Government must recognise the important role of traditional leaders, a role that emerged far before colonial powers arrived to this land and that is entrenched in Chapter 12 of the Constitution.
- This is important not only to respect African customary law, but also to build social cohesion across an entire spectrum of our nations' property regime.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- As a union of black farmers, NAFU SA wholly supports constitutional amendment to enable LEWC.
- We wish to contribute to the debate on LEWC by advancing a different vision and paradigm for land and agrarian reform that we believe has much greater potential for meeting the needs and rights of black farmers and other intended beneficiaries of reform, and to engender true transformation in the agricultural sector and broader economy.
- Our key proposal is that the most effective mechanism to undertake LEWC is **nationalisation of all land in South Africa, in which our country's land is vested in the custodianship of the State to hold and administer equitably on behalf of all South Africans.**
- We further propose that long-term leasehold rights replace freehold rights as the basic land tenure system to be adopted in South Africa.
- In addition, we recommend a complete overhaul of the State's existing technical, financial and physical architecture of support for farmers, extensive water reform, and the introduction of a new tax to enhance rural infrastructure development and service delivery in (more details are on these proposals are provided in this presentation).



# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- We believe that our proposed measures nationalisation of land and our other proposed interventions will help to de-racialise the land question and enable Government to at last move forward in creating a more equitable agricultural sector and transforming SA
- Nationalisation as a mechanism to return South Africa's land to the majority black population is not a new proposal → land nationalisation was called for by the ANC and others as far back as the Freedom Charter up to the early 1990s.
- To NAFU, it is apparent that the Freedom Charter calls for collective and equal ownership of the country's resources, including the land.
- In keeping with the Freedom Charter's calls for collective ownership and mass re-division of SA's land, subsequent key ANC documents and statements emphasised the urgency of abolishing white monopoly land ownership and ensuring mass redistribution to land the hungry majority up until the early 1990s.

# **Introduction: Broader Context to Land Expropriation without Compensation (LEWC)**

- After nearly a quarter of a century of democracy, the bulk of South Africans are still deprived of access to land and wealth, which is their rightful heritage.
- The Freedom Charter's calls for the massive transfer of agricultural land into the hands of those who were dispossessed in order to end poverty and hunger has not been realised.
- South Africa's wealth is not being shared by all of its people, but rather a very small minority.
- The constitutionally sanctified rights to equitable land access, tenure security and restitution for dispossessed land rights are hopelessly unrealised for most people in this country.
- There remains massive poverty, unemployment, landlessness, homelessness, hunger and inequality.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- Considering this current reality, NAFU strongly suggests that we pursue land nationalisation to ensure that SA does belong to all who live in it in the future, as declared by the Freedom Charter, the Constitution and other key national frameworks.
- Our submission is based on assessments done on SA's history of land dispossession and its enduring legacy to present day, and key, the historic continuities of property relations in post-apartheid SA.
- The extent of this dispossession exceeds that of any other country in the continent. Beginning from 1657 through to the late 1980s (almost 350 years), black South Africans were forced to leave their land and homes and overcrowded in designated 'reserves'.
- Colonial and apartheid dispossession and separate development completely halted the development of African agriculture in the early 20<sup>th</sup> century, thus destroying the class of black commercial farmers that had, despite all odds, become relatively successful.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- White commercial agriculture heavily relied on state support rendered by successive interventionist governments from 1910 up until the early 1990s.
- Without exception, all of the agricultural policies pursued by colonial and apartheid governments were biased towards white producers.
- Policies of land dispossession enabled white ownership/control over most of SA's land, and ensured "deagrarianisation" of indigenous South Africans, entrenchment of the migrant labour system and the subsequent availability of cheap black labour.
- While the white commercial agriculture sector flourished, Bantustans and Homelands were impoverished due to deliberate neglect by the colonial government.
- Massive land dispossession, deliberate underinvestment in these areas and the resultant decline of African farming led to a gradual loss of agricultural and rural capital, wealth, farming and entrepreneurial skills and experience.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- Present day underdevelopment in rural areas is not a mere reflection of historical antecedents but also shows the interplay of the political, economic, social and cultural forces which need to be considered in redressing the land question in the country.
- Due to the draconian nature of apartheid, the UN officially declared it a crime against humanity in 1973 with the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention).
- However, the Truth and Reconciliation Commission (TRC) failed to look at land dispossession as an urgent and gross violation that also needed attention and reparations.
- The truth about socioeconomic inequalities in SA therefore remains untold.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC): Post 1994 Land and Agrarian Reforms

- SA's agrarian policy restructuring after 1994 is characterised by a compendium of measures to substantially reform the State's past interventionist approach to agriculture.
- These have included market deregulations, reductions in budgetary expenditure on the sector, abolishment of tax concessions, trade liberalisation, termination of agricultural Control Boards, phasing out of import and export controls, obliteration of subsidies, etc.
- Within this context, the post-1994 era has not ushered in transformation of the agricultural sector as intended.
- The recent state land audit reveals that 72% of farmland owned by individuals remains under white ownership. Only 4% is owned individually by black South Africans.
- The divide between white and black farmers has widened, with high levels of inequality observable not only in the distribution of productive assets such as land and water, but also in terms of access to infrastructure, credit, markets and support services.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC) : Post 1994 Land and Agrarian Reforms

- Today, an estimated 35 000 mostly white commercial farmers are responsible for 95% of the economic output in the sector. The remaining 5% is generated by around 2.5 million black small-scale and subsistence farmers.
- Agricultural restructuring has meant that the very mechanisms of support that enabled the establishment of a thriving commercial agricultural sector have been unavailable to black farmers in the post-independence period.
  - It has translated into further consolidation of SA's farmland, as evident in increasing average farm sizes (those with a turnover of >R300 000 grew from 1 450 ha in 1997 to 2 500 in 2015).
  - It has meant financialisation, foreignisation and increased monopolisation over the agricultural sector by various national and international private interests.
- These trends have undermined rural transformation and deepened agricultural dualism.

# Introduction: Broader Context to Land Expropriation without Compensation (LEWC)

- Although SA's government has instigated numerous strategies to support land reform beneficiaries and other black farmers since 1994 (e.g. SLAG, LRAD, CASP, MAFISA, AgriBEE, the Land Bank etc.), these have not reached the small-scale farming sector to any meaningful extent.
- This is due to various factors, most notably limited capacity, funding, institutional fragmentation, lack of representation of small-scale farmers and an entrenched bias towards large-scale commercial farmers.
- NGOs and other civil society actors in SA currently lack capacity to effectively advocate for a radical reform agenda.
- **Given the historic context to South Africa's Land Question, and, the Post 1994 Land and Agrarian reform experience and outcomes, as NAFU, we call for a significant paradigm shift, one that begs, our indulgence to consider, a wholesale, all inclusive alternative that will meet the writ of the LEWC motion and advance, an all inclusive, de-racilised land and agrarian economy in SA.**



# NAFU's Key Proposals to contribute to the LEWC

## 1) Amend the Constitution to explicitly provide for land nationalisation

- We propose that the Constitution be changed to explicitly provide for the nationalisation of all land in South Africa.
  - As already emphasised, the Preamble of the Constitution states very clearly **“South Africa’s land belongs to all who live in it.”** One way to further enshrine land nationalisation within the Constitution is to amplify and elaborate on this statement even further.
  - In addition, Section 25 should be amended to provide for land nationalisation. This can be achieved by amending the definition of property to exclude land in Section 25(4).
  - Furthermore, a separate clause should be inserted into section 25 that specifically addresses land, and makes clear that property such as a building or house is not given the same status as land.

## NAFU's Key Proposals to contribute to the LEWC

- Land must be elevated and evaluated separately, with all buildings classified as individual properties while land is classified as a collective resource of all citizens vested in the State for sound management and administration.
- This distinction will allow mobility and promote rather than discourage investment in the land, and thus help to overcome potential risks of nationalisation such as de-investment in the land.
- Those who have invested in developing the land can then derive profits from such improvements if they decide to move off the land or demolish all activities on the land.
- Also, this separate clause on land could provide for the classification of land into different categories, with varying conditions of use and access applying to each of these.
  - Examples of different categories of land that could be used are: **Agricultural/ Arable land; Residential land; Servitude land; Industrial land; and Mining land.**

# NAFU's Key Proposals to contribute to the LEWC

## 2) Legislate land nationalisation

- Second, we propose the development and enactment of a new law that gives legislative effect to the principle that SA belongs to all who live in it.
  - This new law would provide the legislative framework for establishing a new tenure system (see below) that is more aligned to African principles surrounding land tenure and tenure realities on the ground.
  - The law would vest all of SA's land in the State, who will be the custodian of the land to the benefit and well-being of all South Africans, therefore doing away with private land ownership and instituting collective public land ownership.
  - Key aims of the legislation should be: to facilitate equitable access to land and shelter, widespread tenure security, democratic land administration, spatial justice, historical redress, sustainable land use, poverty reduction, employment creation and the emergence of a more equitable agricultural sector.

## **NAFU's Key Proposals to contribute to the LEWC**

- This proposed new legislative framework for land nationalisation follows the DRDLR's proposal on the establishment of overarching Legislation on Land Rights as discussed in the November 2017 Land Audit report.
- NAFU SA's proposed nationalisation law should cover all of the areas mentioned in the DRDLR's proposed law, and all related aspects of establishing of a new tenure system in SA (e.g. cadastral reforms, limitations on land rights, accountability mechanisms etc.) as well as requirements for beneficiary support.
- The legislation should further ensure that any other implicated laws are amended accordingly, including the 1937 DRA.

# **NAFU's Key Proposals to contribute to the LEWC**

## **3) Introduce a new system of land tenure based on long-term leasehold**

- Once the legislative basis for the collective public ownership of South Africa's land has been laid, we propose that all freehold rights be converted into long-term leaseholds.
- Also, the estimated 60% of SA's population without registered land rights should be enabled to formalise these if they so choose by applying for land leases from the state.
- In this way, one tenure system could govern the land rights of all citizens. Existing land holders will enjoy the same rights and legal protection accorded under the current freehold system (e.g. rights to transfer, sell and bequeath the land, and to use it as collateral to secure financing).
- Such leasehold rights are similar to the land use right certificates issued to both urban and rural residents in various other African and Asian countries such as Mozambique, Ethiopia, Uganda, Vietnam and Cambodia.

## NAFU's Key Proposals to contribute to the LEWC

- The State should take measures to ensure that lending institutions honor leases in terms of their collateral value. The long duration of the leases would attest to their secure nature.
  - Lenders are also typically reluctant to finance leaseholds for fewer than 30 years, and thus a longer-term lease gives the lender reasonable guarantees of recouping their money in that given period.
  - For owners, these leases offer a way to pass down their assets to their children.
- Also, leaseholds should be issued with a set of conditions of use and access.
  - These limitations on leasehold rights must be formulated in a way that facilitates equitable land access, sustainable land use, enhanced agricultural productivity, spatial integration, infrastructural development and inclusive social and economic development.
  - For instance, there should be prohibitions placed on land speculation, absentee landlordism, non-productive use of land (e.g. the conversion of farmland into golf estates) etc.

## NAFU's Key Proposals to contribute to the LEWC

- Landholders must also fulfill specified obligations such as payment of a land or wealth tax.
- The State should moreover institute requirements that certain landholders (e.g. large-scale farming and agri-business estates) meaningfully contribute to land reform and agricultural transformation, and comply with existing laws and policies in this regard.
- Non-adherence to the lease conditions should result in revocation of leasehold rights.
- It is absolutely critical that:
  - Conditions of use and access not be employed in a way that increases tenure insecurity and landlessness, particularly of vulnerable groups.
  - Mechanisms be put in place to prevent any gender discrimination or other forms of discrimination in the issuance of leases.
  - Mechanisms are put in place to ensure improved state management of leaseholds, accountability of government officials and transparency.

## **NAFU's Key Proposals to contribute to the LEWC**

- A prerequisite of issuing leaseholds is significant reform of SA's current cadastral and deeds registration system to extend these services to all citizens, and enable registration of the millions of leasehold rights to materialise from the introduction of this new tenure system.
- The system must also be made flexible enough to accommodate leasehold rights of both individuals as well as those that are shared by groups, and thus be able to capture the more collective and nested nature of African forms of land tenure.
- Detailed research should be undertaken to assist in developing an appropriate leasehold tenure system that will facilitate capital investment inflows from the private sector, whilst protecting land as a sovereign national asset.
- Land belongs to the people of SA and the State. As a finite asset, its protection in advancing our nation's sovereignty is of paramount importance.
- This is in line with international law. The UN has repeatedly declared that the “inalienable right of all states freely to dispose of their natural wealth and resources in accordance with their national interests” as an inherent aspect of sovereignty.



# NAFU's Key Proposals to contribute to the LEWC

## 4) Overhaul state's architecture for supporting black farmers

- Our fourth recommendation is to radically reconstruct the existing physical, technical and financial support architecture to extend comprehensive support services to black farmers and other land reform beneficiaries.
- The benefits of land nationalisation can only be realised if accompanied by a systematic programme of support for the settlement and production of land, and the success of land and agrarian transformation is predicated on such.
- This is especially critical considering the structural crisis of SA agriculture as exemplified in the increasing concentration, capitalisation, financialisation, foreignisation and securitisation characterising the sector.
- The ANC's 54<sup>th</sup> Conference resolved to “ensure effective programmes to increase training and support measures that will ensure the success of beneficiaries of land reform.” It also resolved to “ensure land reform enhances food security for poor families and maintain food security for South Africa as a whole.”

## NAFU's Key Proposals to contribute to the LEWC

- Fulfilling these resolutions requires a redesign of state agricultural support programmes and an overhaul of state development financing programmes to get rid of silos.
- The DAFF, DRDLR and other key state entities must be capacitated and work together in consolidating/ harmonising the various development support programmes and sources of funding available to black farmers.
- A comprehensive and easily accessible package of support services should be made available for all categories of black farmers. Important elements of such reforms include:
  - Expanding access to land outside of communal areas;
  - Moving beyond the agro-industrial model to one that responds to the needs of black farmers;
  - Targeting youth, women etc. to ensure their inclusion across the value chain;
  - Water reform and provision of infrastructure;
  - Enhancement of state agricultural extension services;
  - Provision of skills development and specialised training programmes;
  - Technical, marketing and financial support;
  - Increasing access to credible and reliable information on agro-processing;
  - Support for improved organisation and representation of black farmers; and,
  - Improved monitoring and evaluation systems to gauge black farmers' needs and assess reforms.

## **NAFU's Key Proposals to contribute to the LEWC**

- Key, resource-poor farmers must be given sufficient access to affordable production finance. Development finance institutions such as the Land Bank continue to exhibit significant bias towards large-scale farmers, with most agricultural financing provided to large-scale commercial operations.
- The Land Bank and other such finance institutions must be overhauled so as to reorient their focus towards extending the needed support to black farmers.
- In general, Government needs to re-intervene in the agricultural sector. It needs to:
  - Re-introduce agricultural subsidies, as well as marketing and other agricultural regulations;
  - Enhance the capacity of key institutions such as the PDAs;
  - Ensure that its food procurement policies prioritise black farmers;
  - Revitalise agricultural co-operatives; and
  - Significantly increase investment in R&D.
  - Foster close relationships with and capacitate NGOs, CBOs, agricultural unions, farm workers formations etc. who represent black agricultural interests.

# NAFU's Key Proposals to contribute to the LEWC

## 5. Integrate water reform with land reform

- Section 25(4)(a) of the Constitution states “the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources.” Hence Section 25 refers to both land and water (Section 27 must also be considered in this regard).
- Given the aforementioned, we need to envision transformative rural redress as a holistic process in which all components, such as land, water for multiple uses, extension, health, education, social grants and local planning, are included.
- Such an approach would require a strong focus on water development, similar to the proactive role played by colonial and apartheid governments since the 1930s to promote irrigation.
- The reallocation of water has not kept pace with the transfer of that land. In some instances, previous owners traded away existing lawful water use rights, so that the water allocation was not transferred to land reform beneficiaries.
- The synchronisation between water allocation and land reform programmes has to be improved.

## NAFU's Key Proposals to contribute to the LEWC

- Hence, in answering the writ of the Motion in terms of types of future land tenure system, NAFU SA emphasises that land reform should be the driver for water allocation reform.
- The imbalances of access to resources, notably water and land, present barriers for new entrants from previously disadvantaged communities.
- Shrinking water resources due to persistent droughts, climate change and water losses will negatively affect all farmers who are already under pressure due to rising costs of production.
- NAFU SA proposes that, together with land, *all* South Africa's water resources be vested in the State, which should be empowered through constitutional amendment to hold both of these resources in trust on behalf of the people of South Africa (i.e. through a Trust).
- The State can then lease land and water with conditions towards achieving their equitable access by all South Africans.

## **NAFU's Key Proposals to contribute to the LEWC**

### **6. Introduce a tax to fund rural infrastructure and services.**

- Our final recommendation is for Government to institute a new tax to facilitate the development of infrastructure and bolster service delivery in rural areas.
- This proposal finds expression from resolutions/recommendations emanating from the 1992 “Ready to Govern” and 1994 RDP policy documents, 1997 White Paper on South African Land Policy, 2012 NDP and the ANC’s 52<sup>nd</sup>, 53<sup>rd</sup> and 54<sup>th</sup> National Conferences convened in 2007, 2012 and 2017, respectively.



# National African Farmers Union South Africa

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***THANK YOU !***