

What price

THE Natal communities of Roosboom and Charlestown had their land returned in December 1992. But instead of returning their title deeds, the government has demanded that these communities pay back the "compensation" the government gave them when they were removed. If they do not, they will not get back their title to the land. And other communities who were "compensated" when they were removed and who get back their land are likely to face the same problem.

The Alcockspruit community of the Dundee District in Natal put in a land claim to the Advisory Commission on Land Allocation in February 1993. So far the Commission has not made public its recommendation about the claim. But in a confidential document to the state president, the Commission recommended that: "Ownership be restored to the former landowners who are able to prove their ownership on the date of expropriation (but that) the Commission is of the opinion that state owned land should not be disposed of without payment. In view of the fact that the community was compensated for their land, the value of the properties to be returned to the former owners should be determined by the Board on Land Affairs or the former owners should be held liable to repay the compensation

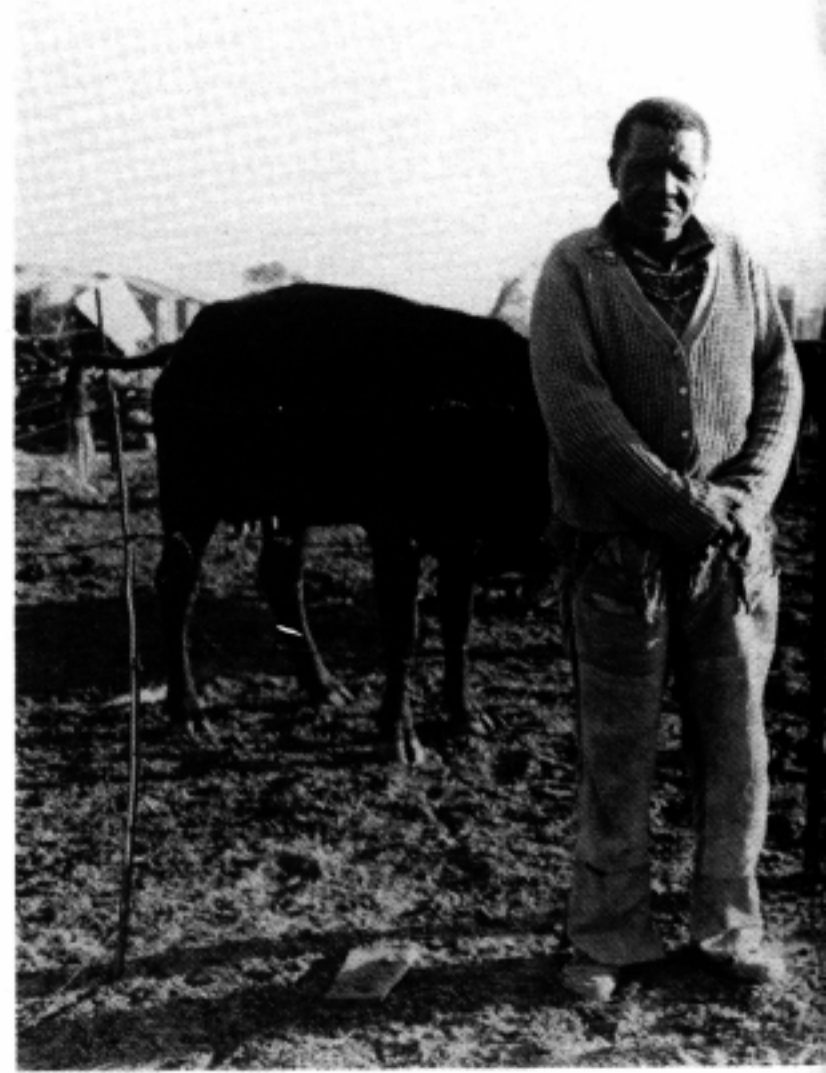
they received," the document said.

Erik Buiten, Chief Director, Land Reform in the Department of Regional and Land Affairs, said the government had to be sensitive to specific cases and had to think in terms of the consequences for other rural and urban communities with land claims.

"Let's take the example of Roosboom in Natal and the Mfengu community in the Eastern Cape," he said. "The Mfengu received almost no compensation. Roosboom landowners received monetary compensation and alternate land. Roosboom got about 964 hectares and about R360 000 for improvements. Only two families at Roosboom did not accept monetary or land compensation.

"Communities, such as the Mfengu, might say that if Roosboom gets back its land for free, then they should get back their land and some extra, because they were not compensated when they were removed. It is for this reason that we can't say that all communities who were removed should get back their land for free. Different communities were disadvantaged in different ways. We cannot treat them all the same," he said.

Mr Mashwaba Msizi, coordinator of the Tsitsikama Exile Association, which represents the Mfengu people, dismissed Mr Buiten's justification. "It's nonsense," he said, "that communities who were



removed and who get back their land should repay compensation the government may have given them before they can get back their title deeds. People suffered during the removals. Some people died from the shock, others suffered starvation because they couldn't get jobs to feed their families. What is the government going to do about this suffering? Charlestown and Roosboom and other forcibly removed communities who get back their land should also get back their title, without having to repay compensation they may have got at the time of their removal. If anything, the communities who were forcibly removed should be compensated for their suffering. People may get back their land but they will also have to re-establish themselves afresh on that land," he said.

restoration?



Joanne Yawitch, Director of the National Land Committee, pointed out that there were two aspects to the issue: a moral one and an economic one.

"Morally, it is wrong for the government to demand back compensation it may have paid to people who it forcibly removed.

"Economically, if the government wants to insist on this repayment, then it should also be prepared to repay communities what they lost through forced removal. Those communities who were compensated with other land, generally got land which was inferior. They were also not compensated for the long-term productive value of what they lost. If a proper costing was done of what forced removal cost the communities concerned, this would probably be far higher than the 'compensation' which

communities may have received."

A government official who did not want to be identified said he repaying the compensation could be a futile exercise. "The costs of recovering some of the amounts may well be more than the actual compensation paid for the land when it was expropriated," he said.

The Legal Resources Centre's (LRC) Geoff Budlender felt the issue had to be considered in terms of the broad principle of restoration. "Restoration means making good the loss people suffered and in doing so, we need to take into account what people received when they were removed, what they lost and what they get back. In some cases of restoration, communities who get back their land may have to repay the compensation they received. It is important that there be fairness and consistency in the restoration process," he said.

Henk Smit of the LRC in Cape Town felt that it would be problematic for a future land reform process if non-payment of compensation was adopted as a principle. He said communities faced with the prospect of having to repay compensation could suggest that such payment be made affordable to them and that the government also help the community to re-establish itself by providing a start-up grant for development.

In Charlestown the Development and Services Board (DSB) has tried to defuse the issue. In a letter to the community in September, the DSB Chief Executive said the compensation refund would only be for the value of the land at the time of expropriation.

"The money refunded would not be paid to the state, but to the Development and Services Board, which would use it for the development and improvement of the area. Such funds would not be used in any other area. In order to assist anyone who may experience difficulty in finding the full amount of the refund at short notice, it is hoped to arrive at an arrangement satisfactory to all parties whereby the refund could be paid in instalments," the letter said. Charlestown landowners got between R250 and R350 for their land.

In its options for land reform, the World Bank suggests 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.