

# ***Land Redistribution in South Africa: Progress to Date<sup>1</sup>***

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## ***Introduction and Background***

This paper provides an overview of land reform in South Africa since the advent of democratic government in 1994, with a particular emphasis on land redistribution. It begins with a brief sketch of the historical background before outlining the main aspects and achievements of the land reform programme to date. The final sections of the paper briefly discuss some new policy proposals and the key challenges facing land reform in the country.

The extent of dispossession of the indigenous people of South Africa by European colonists, mainly Dutch and British settlers, was greater than any other country in Africa, and persisted for an exceptionally long period. European settlement began around the Cape of Good Hope in the 1650s and progressed northwards and eastwards over a period of three hundred years. By the twentieth century, most of the country, including most of the best agricultural land, was reserved

for the minority white population with the African majority confined to just thirteen per cent of the territory known as native reserves, and later African Homelands or Bantustans. The European decolonization of Africa was strenuously resisted and delayed by the settler-colonies of southern Africa, with the result that South Africa made the transition to democratic, non-racial government only in 1994.

At the end of Apartheid<sup>3</sup>, approximately 82 million hectares of commercial farmland (86% of all farmland, or 68% of the total surface area) was in the hands of the white minority (10.9% of the population), and concentrated in the hands of approximately 60,000 owners<sup>4</sup>. Over thirteen million black people, the majority of them poverty-stricken, remained crowded into the former homelands, where rights to land were generally unclear or contested and the system of land administration was in disarray. These areas were characterised by extremely low incomes and high rates of infant mortality, malnutrition and illiteracy relative to the rest of the country. On private farms, millions of workers, former workers and their families faced severe tenure insecurity and lack of basic facilities. Today, South Africa has one of the most unequal distributions of income in the world, with income and quality of life being strongly correlated with race, location and gender (May 2000: 2).

The transition to democracy in South Africa (1990-1994) occurred under very different

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<sup>3</sup> Apartheid is an Afrikaans (Dutch) word meaning ‘separation’, and implies strict racial segregation in all areas of life. It was the official ideology of the white minority regime that held state power from 1948 to 1994.

<sup>4</sup> In 1996, the South African Census reported a total population of 40.5 million, broken down in the following terms: African = 76.7%; White = 10.9%; Coloured = 8.9%; Indian/Asian = 2.6%; Unspecified/Other = 0.9% (Source: Statistics South Africa).

circumstances to those of its neighbours, through a negotiated settlement rather than an all-out war of liberation. This political compromise left much of the power and wealth of the white minority intact, including property rights. The international political and economic climate was also changing rapidly, and the old certainties that had informed both the nationalist and the socialist wings of the liberation movement, led by the African National Congress (ANC)<sup>5</sup>, were fading fast. The new Constitution created the basis for a liberal democracy, albeit with an emphasis on socio-economic rights and a clear mandate on the state to redress the injustices of the past. The Constitutional clause on property guaranteed the rights of existing owners but also granted specific rights of redress to victims of past dispossession and set the legal basis for a potentially far-reaching land reform programme.

South African agriculture is of a highly dualistic nature, where a developed commercial sector co-exists with large numbers of small subsistence farms on communal lands (National Department of Agriculture 2007; OECD 2006). The commercial sector generates substantial employment<sup>6</sup> and export earnings, but contributes relatively little to Gross Domestic Product in this highly urbanized and industrialized economy – agriculture's

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<sup>5</sup> The African National Congress was founded in 1912. During the struggle against apartheid (1948-1994) it contained both nationalist and socialist factions, and has a long-standing alliance with the South African Communist Party and the Congress of South African Trade Unions. The ANC was victorious in the general elections of 1994 (when it formed a multi-party Government of National Unity under the leadership of Nelson Mandela) and again in 1999 and 2004 (under the leadership of Thabo Mbeki).

<sup>6</sup> Agriculture accounted for 10% of formal employment in 2002 (Vink and Kirsten 2003: 6)

share of GDP fell from 9.12% in 1965 to just 3.2% in 2002 (Vink and Kirsten 2003). While close to half of the African population continue to reside in rural areas, most are engaged in agriculture on a very small scale, if at all, and depend largely on non-agricultural activities, including migration to cities, local wage employment and welfare grants, for their livelihood. South Africa had a thriving African peasant sector in the early twentieth century, but this was systematically destroyed by the white settler regime on behalf of the mines, demanding cheap labour, and white farmers demanding access to both cheap land and cheap labour (Bundy 1979).

## ***The Legal and Policy Basis for Land Reform***

Since 1994, South Africa has embarked on an multi-faceted programme of land reform, designed to redress the racial imbalance in land holding and secure the land rights of historically disadvantaged people. Progress in all areas of the programme is generally considered to have fallen far behind expectations and official targets. This section provides an overview of the main developments in land policy, touching briefly on restitution and tenure issues, but concentrating on redistribution policy.

The *Constitution of the Republic of South Africa* sets out the legal basis for land reform, particularly in the *Bill of Rights*, which places a clear responsibility on the state to carry out land and related reforms, and grant specific rights to victims of past discrimination: "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" (Section 25, 4). The Constitution allows for expropriation of property for a public purpose or in the public interest, subject to just and equitable compensation.

The framework for land reform policy was set out in the *White Paper on South African Land Policy*, released by the Department of

Land Affairs (DLA) in April 1997, and can be divided into three broad areas:

- Land Restitution, which provides relief for certain categories of victims of forced dispossession;
- Redistribution, based on a system of discretionary grants that assists certain categories of people to acquire land through the market; and
- Tenure reform, intended to secure and extend the tenure rights of the victims of past discriminatory practices.

The state's land reform programme thus aims to achieve objectives of both equity, in terms of land access and ownership, and efficiency, in terms of improved land use and contribution to the rural (and ultimately the national) economy. These objectives, and the preferred means of achieving them, are described in the White Paper (DLA 1997: 38):

*The purpose of the land redistribution programme is to provide the poor with access to land for residential and productive uses, in order to improve their income and quality of life. The programme aims to assist the poor, labour tenants, farm workers, women, as well as emergent farmers. Redistributive land reform will be largely based on willing-buyer willing-seller arrangements. Government will assist in the purchase of land, but will in general not be the buyer or owner.*

The following section looks in more detail at the various components of the land reform programme.

## ***Land Restitution - Reclaiming historical rights***

The legal basis for restitution was created under the *Restitution of Land Rights Act (Act 22 of 1994)*, which provided for the restitution of land rights to persons or communities dispossessed under racially-

based laws or practices after 19 June 1913. A Commission on the Restitution of Land Rights was established under a Chief Land Claims Commissioner and seven Regional Commissioners. A special court, the Land Claims Court, with powers equivalent to those of the High Court, was also established to deal with land claims and other land-related matters. Legally, all restitution claims are against the state, rather than against past or current landowners. Provision is made for three broad categories of relief for claimants: restoration of the land under claim, granting of alternative land or financial compensation.

The cut-off date for lodgement of restitution claims was 31 December 1998, and the total number of claims lodged was 63,455, including individual (or family) and community claims, in both urban and rural areas. Following a major validation campaign during 2002, the total number of claims in the system was revised to 79,687<sup>7</sup>, and the settlement of claims accelerated dramatically. By August 2006, only 8,107 claims were still waiting to be settled, of which 6,975 were classified as rural and 1,132 as urban (DLA 2006b). Government has set a target of 31<sup>st</sup> March 2008 for the settlement of all outstanding claims, but this target looks unlikely to be met.

Having settled a high proportion of urban claims, mostly by cash compensation, the Commission on Restitution of Land Rights is now dealing with the backlog of rural claims, many of them on prime agricultural land. The processing of rural claims poses major administrative challenges for the Commission, in terms of land acquisition, resettlement of communities and negotiation of long-term development support. While over 8,000 rural claims are said to be settled, it would appear that less than 200 have been settled through the

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<sup>7</sup> Address by Minister for Agriculture and Land Affairs, Ms Thoko Didiza, on the Budget Vote of the Department of Land Affairs, 01 April 2003.

restoration of land, suggesting that the process still has a long way to go. It also raises important political considerations, especially where white landowners resist restitution and the commercial agriculture lobby opposes the 'loss' of prime agricultural land. The manner in which such claims are settled, particularly the politically sensitive question of whether to expropriate land in certain circumstances, will have major implications not just for the restitution programme but for the whole process of land and agrarian reform in South Africa.

Up to 2006, the state relied entirely on voluntary agreements with current landowners in order to purchase privately-owned land on behalf of claimants. Substantial areas of state-owned land were also restored. An amendment to the Restitution Act in 2003 allows the Minister of Land Affairs to expropriate land by ministerial order, potentially greatly increasing the rate of acquisition of private land under claim. The first expropriation orders were issued only in January 2007, and the first land acquired by expropriation in March 2007.

Following much adverse criticism arising from the perceived failure of a number of high profile settled restitution claims, the state has recently begun exploring the use of 'strategic partnerships' with commercial farmers and other operators, particularly in areas of high-value agricultural and eco-tourism land. Under this system, communities that regain their land will be required to enter into long-term profit-sharing relationships with commercial partners as a means of securing access to working capital and management expertise.

While there have been a number of 'success stories' in restitution – such as the Zebediela Citrus Estate, in Limpopo Province, and the Makuleke claim on part of the renowned Kruger National Park - these have been greatly outnumbered by the number of settled claims that have

effectively collapsed or have failed to generate any benefits to date (see below).<sup>8</sup>

## ***Tenure Reform: securing land rights***

Tenure reform in rural South Africa refers to both the protection, or strengthening, of the rights of occupiers of privately-owned farms and state land (e.g. farm workers and tenants), and the reform of the system of communal tenure prevailing in the former homelands.

Almost all land in the rural areas of the former homelands is still legally owned by the state, in trust for particular communities. These areas are characterised by severe overcrowding and numerous unresolved disputes where rights of one group of land users overlap with those of another. Today the administration of communal land is spread across a range of institutions such as tribal authorities and provincial departments of agriculture, but is in a state of collapse in many areas. There is widespread uncertainty about the validity of documents such as Permission to Occupy (PTO) certificates, the appropriate procedures for transferring land within households and the legality of leasing or selling rights to use or occupy land (Ntsebeza 2006; Cousins 2007). Numerous cases have been reported of development initiatives that are on hold awaiting clarity on ownership of land in the former homelands. Larger settlements and towns within the homelands have generally undergone a process of 'formalisation, whereby title to residential sites is transferred to individual owners and services and infrastructure are provided by local municipalities, but this has not been applied to rural villages and agricultural

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<sup>8</sup> High-profile projects which have effectively collapsed include Elandskloof, in the Western Cape, and Komani-San in Kalahari Gemsbok National Park in the Northern Cape.

land. These 'urban' areas are effectively removed from the formal authority of traditional leaders (chiefs) and are no longer considered part of the communal lands.

Attempts to draft a law for the comprehensive reform of land rights and administration in communal areas were abandoned in mid-1999 in the face of stiff opposition from traditional leaders. A radically revised Communal Land Rights Act was passed by Parliament in 2004 but has yet to be implemented. The Act is intended to give secure land tenure rights to communities and persons who occupy and use land previously reserved for occupation by African people and which is registered in the name of the State or is held in trust by the Minister of Land Affairs or the Ingonyama Trust (which operates in the province of KwaZulu-Natal). According to the DLA, "The Act seeks to reverse this historical legacy of colonialism and apartheid by strengthening the land tenure rights of the people living in these communal land areas and to give their land tenure rights the full protection of the law" (DLA 2004). Among its provisions, the Act grants land tenure rights in communal areas legal recognition and protection of the law, permits the vesting of land and land tenure rights in communities and persons and allows for registration of land rights in the Deeds Office. The Act aims to transfer ownership of land from the state to local structures, which in most areas are likely to be tribally-based Traditional Councils set up in terms of the Traditional Leadership and Governance Framework Act of 2003. Although supported by the traditional chiefs, it has been criticised by a range of trade unions, women's organisations, the South African Human Rights Commission and land rights NGOs as perpetuating the undemocratic rule of tribal chiefs and failing to secure the rights of individuals, especially women (Walker 2003; Claassens 2003). Non-governmental voices have warned of the dangers of overlooking countless informal land rights and strengthening the hand of unaccountable local leaders. They

have called for a more gradual approach that safeguards existing rights, allows for a range of democratic land-holding structures to evolve and provides administrative and dispute-resolution mechanisms during what is likely to be an extended period of transition and uncertainty (Cousins 2007). Local government structures have also entered the debate, raising the contentious question of which institution will be responsible for the delivery of infrastructure and services once communal land has been 'privatised'.

On commercial farms, the Extension of Security of Tenure Act 62 of 1997 (ESTA) has had little success in preventing evictions. In theory, ESTA provides protection from illegal eviction for people who live on rural or peri-urban land with the permission of the owner, regardless of whether they are employed by the owner or not. While the Act makes it more difficult to evict occupiers of farm housing, evictions within the law are still possible, and illegal evictions remain common. A study by Wegerif, Russell and Grundling (2005) found that over two million farm dwellers – many of them tenant farmers engaged in independent production – were displaced between 1994 and 2004, more than had been displaced in the last decade of apartheid (1984-94) and far more than the total number of people who had benefited under all aspects of the official land reform programme since it began.<sup>9</sup> In theory, ESTA allows farm dwellers to apply for grants for on-farm or off-farm developments (e.g. housing), and gives the Minister of Land Affairs powers to expropriate land for such developments, but neither of these measures have been widely used to date. Where grants have been provided, it has usually involved people moving off farms and into townships rather than granting

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<sup>9</sup> Of an estimated 2,351,086 people displaced from farms since 1994, 942,303 (40%) were found to have been evicted; others left for a variety of social and economic reasons (Wegerif et al. 2005: 7).

farm residents agricultural land of their own or secure accommodation on farms where they work.

One category of farm-dwellers, labour tenants, have, in theory, acquired much stronger legal rights. The term labour tenant usually refers to black tenants on white-owned farms who pay for the use of agricultural land through the provision of labour, as opposed to cash rental. The Land Reform (Labour Tenants) Act of 1996 aims to protect labour tenants from eviction and gives them the right to acquire ownership of the land that they live on or use.

Approximately 19,000 claims have been lodged under the Act, mostly in KwaZulu-Natal and Mpumalanga, of which only a minority have been settled to date. Neither the LTA nor ESTA have succeeded in meeting their chief objectives of preventing illegal evictions and securing land rights, which can be attributed largely to a lack of dedicated budgets for tenure reform on the part of DLA and a lack of enforcement of the law by police, prosecutors and the courts (Hall 2003; Xaba 2004).

A total of 126,519 hectares of land have been provided to people under the tenure reform programme since 1994, mainly for farm dwellers and labour tenants removed from commercial farms. As with all other land provided under the land reform programme, this land is held by the beneficiaries in freehold title, either as individuals or as part of a Communal Property Association<sup>10</sup> or a legal trust.

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<sup>10</sup> A Communal Property Association (CPA) is a legal entity created in terms of the Communal Property Associations Act of 1996 that allows groups of people to own land collectively.

## ***Redistribution: Shifting the balance of landholding and production***

While tenure reform and restitution cater to specific groups of people who have legally enforceable rights – these programmes are generally referred to as rights based – redistribution is a more discretionary programme that seeks to redress the racial imbalance in landholding on a more substantial scale. The legal basis for redistribution is the Provision of Certain Land for Settlement Act 126 of 1993, which was amended in 1998 and is now titled the *Provision of Land and Assistance Act*, but this is no more than an enabling act that empowers the Minister of Land Affairs to provide funds for land purchase. The details of the redistribution programme are thus contained in various policy documents rather than in legislation.

Redistribution policy has undergone a series of shifts since 1994, focussing on provision of grants to assist suitably qualified applicants to buy land in rural areas, mainly for agricultural purposes but also for residential purposes ('settlement'). Provision of land in urban areas has, to date, largely been pursued by local government under the housing programme.

The methods chosen by the state to bring about redistribution are mainly, although not entirely, based on the operation of the existing land market. Other measures, such as expropriation, are available to the state, but have not been widely used to date. The role of the state is thus limited to the provision of grants and other measures to assist people who might otherwise be unable to enter the land market to purchase property of their.<sup>11</sup>

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<sup>11</sup> Strictly speaking, the policy of willing buyer, willing seller applies only to the (discretionary) redistribution programme. In practice, negotiated purchases at market

The concept of ‘willing seller, willing buyer’ entered the discourse around land reform in South Africa gradually during the period 1993–1996, reflecting the rapid shift in economic thinking of the African National Congress (ANC) from left-nationalist to neo-liberal. It was entirely absent from the ANC’s *Ready to Govern* policy statement of 1992, which instead advocated expropriation and other non-market mechanisms, and from the *Reconstruction and Development Programme*, the manifesto on which the party came to power in 1994 (Lahiff 2007). An extensive programme of consultation by the new Department of Land Affairs, both within the country and with international advisors, led to a new policy direction, outlined in the *White Paper on South African Land Policy* of 1997, which made a market-based approach, and particularly the concept of ‘willing buyer, willing seller’, the cornerstone of land reform policy (World Bank 1994; DLA 1997; Hall, Jacobs and Lahiff 2003). Such an approach was not dictated by the South African Constitution but can be seen as policy choice which was in line with emerging international trends and with the neo-liberal macro-economic strategy (GEAR) adopted by the ANC in 1996.

Up to 2000, redistribution policy centred on the provision of the Settlement/Land Acquisition Grant (SLAG), a grant of R16,000 supplied to qualifying households with an income of less than R1,500 per month. This phase of the redistribution was generally described as targeting the ‘poorest of the poor’, which it appears to have done with some success, but was also widely criticised for ‘dumping’ large groups

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prices have also been a feature of the restitution and tenure programmes, despite their rights basis. Recent moves to by the state to invoke powers of expropriation in cases where negotiations have deadlocked apply only to restitution claims, and have no direct bearing on the application of the ‘willing seller’ principle in redistribution.

of poor people on former commercial farms without the skills or sources necessary to bring them into production. Since 2001, SLAG has been effectively replaced by a programme called Land Redistribution for Agricultural Development (LRAD), which was introduced with the explicit aim of promoting commercially-oriented agriculture, but also claimed to cater to other groups as well. The new policy offers higher grants, paid to individuals rather than to households, and makes greater use of loan financing through institutions such as the state-owned Land Bank, to supplement the grant. LRAD offers a single, unified grant system, that beneficiaries can access along a sliding scale from R20,000 to R100,000. All beneficiaries must make a contribution, in cash or kind, the size of which determines the value of the grant to which they qualify. The minimum contribution is R5,000 which can be in the form of the individuals own labour contribution, with which an applicant can obtain a grant worth R20,000. Under LRAD, grants are provided by provincial land reform offices and, under an agency agreement with the DLA, have also been disbursed through the offices of the state-owned Land Bank. In its approach to land acquisition, LRAD retains the market-based, demand-led approach of previous policies.

Most redistribution projects have involved groups of applicants pooling their grants to buy formerly white-owned farms for commercial agricultural purposes. This emphasis on group projects has been largely due to the small size of the available grant relative to the size and cost of the typical agricultural holding and the many difficulties associated with sub-division of land (see below). Also, many rural communities view redistribution as a means of extending their existing system of communal land holding and favour collective ownership. Under LRAD, though, there has been a move towards smaller groups, including extended family groups, due to the increased availability of finance in the form of both grants and credit (van

den Brink et al 2007: 180). In addition, the removal of the income ceiling for grants has facilitated the entrance of black business people into the redistribution programme, who are able to engage more effectively with officials and landowners in order to design projects and obtain parcels of land that match their needs.

Less commonly, groups of farm workers have used the grant to purchase equity shares in existing farming enterprises, especially in areas of very high value agricultural land such as the Western Cape. While these share-equity schemes are often described as among the more successful aspect of land reform in South Africa, they have also been criticised for perpetuating high unequal relations between white owner-managers and black worker-shareholders, and for providing little by means of material benefits to workers (Mayson 2003; Kleinbooi et al 2006).

Since 2001, state land under the control of national and provincial departments of agriculture has also been made available for purchase. Over 700,000 hectares of land has been provided in this way, much of it transferred in freehold title to black tenants who had been previously renting it from the state (Wegerif 2004). A separate grant, the Grant for the Acquisition of Municipal Commonage, has been made available to municipalities wishing to provide land for use by the poor, typically for grazing purposes.

In 2006, the Department of Land Affairs reported that a total of 1,477,956 hectares had been transferred through the redistribution programme, with a further 761,524 hectares through disposal of state land – 2.2 million hectares in all. As with other areas of the land reform programme, however, detailed statistics on beneficiaries, geographical spread of projects, the type of land acquired and types of financing used (i.e. the mix of grants, loans and ‘own contributions’) are generally unavailable.

Since 2005, two new programmes have been implemented to support farmers

emerging from the land reform process, in response to demands for greater support to small-scale farmers. The Comprehensive Agricultural Support Programme (CASP) is a grant targeted to existing black farmers and the beneficiaries of land reform, largely for development of infrastructure. In addition, the Micro-Agricultural Finance Schemes of South Africa (MAFISA) is a newly established state scheme to provide micro and retail financial services, in the form of small loans.

## ***Achievements to Date***

In terms of overall achievements, land reform in South Africa has consistently fallen far behind the targets set by the state, and behind popular expectations. In 1994 virtually all commercial farmland in the country was controlled by the white minority and the incoming ANC government set a target for the entire land reform programme (redistribution, tenure reform and restitution) of redistributing 30% of white-owned agricultural land within a five-year period (African National Congress 1994; Williams 1996). The target date was subsequently extended to twenty years (i.e. to 2014), but, at current rates of land transfer, even this target is most unlikely to be met. Government has tended to attribute this slow progress to resistance from landowners and the high prices being demanded for land<sup>12</sup>, but independent studies point to a wider range of factors, including complex application procedures and bureaucratic inefficiency (Hall 2004a).

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<sup>12</sup> Report by Director General of DLA to parliamentary portfolio committee on agriculture and land affairs, quoted in *Farmers Weekly*, 4 November 2005.

**Table 1: Total Land Transfers Under S.A. Land Reform Programmes  
1994-2006<sup>1</sup>**

<b>Programme</b>	<b>Hectares redistributed</b>	<b>Contribution to total (%)</b>
Redistribution	1,477,956	43.8
Restitution	1,007,247	29.9
State land Disposal	761,524	22.6
Tenure Reform	126,519	3.7
<b>Total</b>	<b>3,373,246</b>	<b>100.00</b>

By July 2006, a total of 3.4 million hectares had been transferred through the various branches of the land reform programme, benefiting an estimated 1.2 million people (although many of these are members of large community-based restitution claims and have no direct access to the land in question - see Table 1). The greatest amount of land (43.8%) was transferred under the Redistribution programme, with lesser amounts being transferred through Restitution, State Land Disposal and Tenure Reform.<sup>13</sup> The total transferred is *equivalent to 4.1%* of the agricultural land in white ownership in 1994 but because much of the land transferred under Restitution and Tenure Reform, some of the land under redistribution, and all the land under State Land Disposal, was land that was formerly under state ownership, the actual impact on white-owned land is considerably less. Missing from these statistics are the amount of 'pure' market redistribution (i.e. land sales unconnected with the official land reform programme (see Lyne and Darroch 2003)<sup>14</sup> and, more significantly, the vast

number of farm dwellers (workers, tenants and their dependents) who have lost access to land on white-owned commercial farms since 1994. A survey by Wegerif, Russell and Grundling (2005) found that over two million farm dwellers – many of them tenant farmers engaged in independent production – had been displaced between 1994 and 2004, more than had been displaced in the last decade of apartheid (1984-94) and more than the total number of people who had benefited under all aspects of the official land reform programme since it began.<sup>15</sup> It must be stressed that the precise achievements of the land reform programme are a matter of intense debate, largely due to poor reporting by the state agencies involved.

## ***Key Emerging Policy Issues in South Africa's Land Reform***

The first part of this paper has provided a brief sketch of the background to land reform in South Africa and an outline of the land reform programme to date. In this section, attention is given to some of the key

private purchases (cash and mortgage loans) for 60,266 hectares (50%). This total area of 121,484 hectares means that 2.3 per cent of white-owned farmland was transferred to disadvantaged owners during these five years.

<sup>15</sup> Of an estimated 2,351,086 people displaced from farms since 1994, 942,303 (40%) were found to have been evicted; others left for a variety of social and economic reasons (Wegerif et al. 2005: 7).

<sup>13</sup> Much of the land transferred (or 'delivered', to use the official term) under the restitution programme has been transferred in nominal ownership only, as the land remains incorporated into nature reserves and state forests and, in terms of the restitution agreements, is not accessibly for direct use by the restored owners (Hall 2003: 27).

<sup>14</sup> Lyne and Darroch found that of all farmland acquired by historically disadvantaged people in KwaZulu-Natal between 1997-2001, private, non-market transfers (mainly bequests) accounted for 16,097 hectares (13%), government-assisted purchases for 45,121 hectares (37%) and

challenges facing the land reform programme, particularly in the area of land redistribution, drawing on a range of official documents, qualitative case studies and grey literature. It also considers some recent proposals for policy change.

### *Land acquisition*

The manner in which land is to be selected, acquired and paid for has been the most contentious issue in South African land reform policy since 1994. The ‘willing buyer, willing seller’ model was based on the World Bank’s recommendations for a market-led reform, emphasising the voluntary nature of the process, payment of full market-related prices, up-front and in cash, a reduced role for the state (relative to previous ‘state-led’ reforms elsewhere in the world) and the removal of various ‘distortions’ within the existing land market. This approach also fitted well with the general spirit of reconciliation and compromise that characterized the negotiated transition to democracy, although it goes considerably further than the requirements of the 1996 Constitution. The South African approach to redistribution does, however, diverge from the model promoted by World Bank thinkers in important respects, particularly in the failure to introduce a land tax to discourage speculation and dampen land prices, the absence of an element of expropriation to deal with difficult cases, the failure to allow beneficiaries to design and implement their own projects and the failure to promote subdivision of large holdings.

The willing buyer, willing seller approach has remained at the centre of the South African land reform up to today, despite widespread opposition and recurring promises of ‘review’ from government leaders. At the National Land Summit of July 2005, for example, the abandonment of this approach was the uppermost demand from civil society and landless people’s organisations, and was the subject of criticism by both the President and the Minister of Land Affairs. Representatives of

large-scale landowners remain broadly in favour of the approach, especially the payment of market-related prices, although they have been critical of protracted processes around land purchase and payment, but are not entirely opposed to selective expropriation as long as market-related compensation is paid (Lahiff 2007: 12).

South Africa has an active land market and well-developed market infrastructure (deeds registry, financial system, professional surveyors and valuers etc.), which undoubtedly presents many opportunities for land acquisition. The weaknesses that have become apparent in the current system of land acquisition are largely in three areas: the suitability of land being offered for sale, the prices being demanded, and bureaucratic delays (including budgetary shortfalls) in funding purchases. The market-led approach being implemented in South Africa offers landowners an absolute discretion on whether or not to sell their land, to whom they sell it, and at what price, with the result that most land that comes on to the market is not offered for land reform. Many landowners are politically opposed to land reform, or lack confidence in the process, especially the slow process of negotiation and payment, and, if possible, prefer to sell their land outside the land reform process. There have been widespread reports that suggest that land being offered for land reform purposes is of inferior quality (Lyne and Darroch 2003; Tilley 2004).<sup>16</sup> In addition, there have been recurring complaints – from land reform beneficiaries, officials and politicians – that where land is offered, excessive prices

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<sup>16</sup> Lyne and Darroch (2003: 13) argue that, for the province of KwaZulu-Natal, ‘farmland redistributed by private market purchases ... comfortably exceeded that redistributed by the government-assisted transactions ... *and consisted of higher quality land* (greater weighted farmland price per hectare).’ (emphasis added).

### ***Restrictions on Subdividing Land***

South Africa ... still has explicit legal and policy restrictions against the subdivision of farms into smaller units... .

South Africa's subdivision policy - the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970) - was inspired by the danger of "die verswaring van het platteland" - literally, the "blackening of the country side." The official reason given at the time was that farms should not be allowed to decrease in size below the so-called "viable" size. This begs the next question: what is a "viable" size?

The first thing to realize is that "viability" is not a notion related to production economies of scale. Instead, it is linked to a minimum income target. In former settler colonies, the "viable" size was calculated by setting a minimum income target for white farmers. On the basis of this income target, a simple calculation followed which determined the size of the farm. Efficiency considerations, such as economies of scale, or employment generation, did not enter the calculation. The viability policy was a social policy which ensured that white farmers earned an income acceptable to white society. ...

To date, unfortunately, neither Zimbabwe nor South Africa has removed such subdivision restrictions. The result is that the restriction on subdivision functions as a powerful barrier to racial integration in the commercial farm areas and in the peri-urban areas ... It makes it difficult for a black person -in Southern Africa, on average, poor - to legally buy a small plot in a formerly white area - simply because no small subdivisions are on offer ...

In other words, a policy that had been designed with the sole purpose of ensuring white living standards and segregating the races is still in place in the democratic, non-racial South Africa of today. This policy lacks any economic, let alone social, rationale. It restricts the land market and makes it difficult for small farmers to buy small farms ...

The removal of these subdivision rules is urgently needed.

Source: Van den Brink et al 2006: 31

are being demanded (Ministry of Agriculture and Land Affairs 2005a).

Demands for the abandonment of 'willing buyer, willing seller' have included calls for the removal of landowner discretion over sales (i.e. routine use of expropriation, or compulsory purchase), especially in areas of high land demand, and the payment of below market prices – measures which are explicitly provided for in the Constitution (Ntsebeza 2007). Since 2005 the Department of Land Affairs have been exploring a number of alternative policy options, including pro-active land acquisition and area-based planning (see below). These imply a more active and strategic role for the state in land purchase

negotiations, rather than leaving it to uncoordinated negotiations between individual landowners and landless people. While these approaches might go some way towards accelerating the pace of land transfer, no measures have yet been introduced to restrict the discretionary power of landowners or to pay below market prices.

### ***Beneficiary targeting***

The intended beneficiaries of land reform have, from the outset, been defined in very broad, and almost exclusively racial, terms. The 1997 White Paper casts a very wide net, including the poor, labour tenants, farm workers, women and emergent farmers, but

no specific strategies or system of priorities have been developed to ensure that such groups actually benefit. As in other areas of land reform, there is a critical shortage of data, from either government or independent sources, leading to much speculation on the socio-economic profile of beneficiaries, especially since the introduction of LRAD in 2001. The limited evidence, however, would suggest that young people, the unemployed and farm workers have been particularly poorly served.

As the redistribution programme is based on 'self-selection' of beneficiaries, there is effectively no targeting of applicants in terms of income or agricultural experience (beyond their ability to conform with the application procedures and, in the case of LRAD, to produce the necessary 'own contribution').<sup>17</sup> Under SLAG (from 1995-2000) a household income ceiling of R1,500 per month was set (but not always enforced). The low level of the grant, and the requirement that people acquire land in groups (often upwards of 100 people) was probably effective in targeting the relatively poor and deterring the better off.

DLA's Quality of Life Survey, conducted in 1999, found that 75% of beneficiaries fell below the poverty line, levels of participation by female-headed households were high (31% nationally) and more than 20% of household heads were unemployed (May and Roberts 2000: 12). A subsequent Quality of Life Survey, in 2002, found an illiteracy level for all respondents of 61% (Ahmed et al. 2003: 196) and supported the general findings of the earlier study that

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<sup>17</sup> Unlike the situation in many other countries (e.g. Brazil, India, Malawi), the self-selection process does have a strong element of oversight by communities, labor unions and other civil society organizations, reflecting the generally low level of popular participation in the implementation of land reform in South Africa.

land reform was successfully targeting the poorer sections of rural society:

*"If employment levels, access to human capital and reliance on social security are used as proxy measures of poverty, then the results indicate that the programme is still targeting the right beneficiaries".*  
(Ahmed et al. 2003 xxi).

The switch to LRAD in 2001, however, with its larger grant sizes and its emphasis on more commercial forms of production, undoubtedly shifted the emphasis towards small groups (often family based) of better off applicants, although once again the data is extremely sparse. This change, and the emphasis on relatively large-scale commercial farming (in the absence of subdivision), also shifted land reform more towards a simple deracialisation of commercial agriculture rather than the radical restructuring that had been envisaged by many in the land sector in the early years of the programme. The greater emphasis now paid to economic 'viability' was also in line with emerging policy direction around black economic empowerment (BEE), which emphasised participation of black people in all sectors of the economy<sup>18</sup>.

### *Farm Planning*

Apart from the ways in which land is acquired, and beneficiaries selected, the South African land reform has been shaped by the type of farm (or project) planning that is has employed. While this has varied somewhat over time, and has given rise to a range of outcomes (not all intended), its broad characteristics can be discerned.

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<sup>18</sup> A specific BEE policy on agriculture – known as AgriBEE – has been in preparation for some time, but has not yet been finalised. It is not clear how this policy – which emphasises share ownership, new business opportunities and participation in management - will relate to land reform.

First, farm planning, in practice, tends to be about the farm, not about the beneficiaries that are due to take it over. Great attention is paid to the physical features of the land, its recent history and its agricultural potential, as seen through the eyes of the commercially-oriented consultants appointed by the Department of Land Affairs on behalf of the intended beneficiaries. Little or no attention tends to be paid to the resources, skills and even expressed wishes of the beneficiaries themselves, even so far as any mention within 'business plans' of the size of the group is concerned. It is quite clear that the beneficiaries must adapt to the needs of the farm, and not the other way around.

Nowhere is this more evident than in the official opposition to subdivision of farms. This has deep roots in South African history, and remains a persistent feature of land reform since 1994, spanning SLAG and LRAD, as well as restitution and even the tenure reform programme.<sup>19</sup> The failure to subdivide is arguably the single greatest contributor to the failure and general underperformance of land reform projects, as it not only foists inappropriate sizes of farms on people (and absorbs too much of their grants in the process) but also forces them to work in groups, whether they want to do so or not.<sup>20</sup> Sub-division has long

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<sup>19</sup> For example, labour tenants (i.e. tenant farmers) in Mpumalanga, with a long history of family-based farming, have been resettled in groups on specially acquired farms, which they hold collectively in undivided shares – effectively, a forced collectivisation.

<sup>20</sup> This discussion focuses on the failure to subdivide farms after they have been acquired. However, a policy of acquiring portions of farms, in sizes appropriate to the needs of identified beneficiaries, could also make the acquisition process itself much quicker and the land reform programme more attractive to more people. Thus, the failure to subdivide contributes not only to

been argued for by the World Bank, but has been consistently opposed by most of the agricultural 'establishment' (including DLA and the Department of Agriculture) (see Box Restrictions on Subdividing Land).

It is difficult to explain this failure to contemplate sub-division, and the topic has been hardly debated during the first decade of the South African land reform programme. But a number of factors may be contributing to this phenomenon. Group acquisition has not been openly questioned by organisations representing the landless, perhaps in the belief that beneficiaries will fare better in a mutually supportive group. The limited evidence from existing land reform projects, however, suggests that large groups do not translate into effective production or benefits, and many collapse into individual production, usually at a very low level of production and with little tenure security for such individuals. The collective ('community') basis of many restitution claims, and the requirement that people to organize themselves into groups in order to access land and grants under the redistribution programme undoubtedly may also have contributed to collective land holding and attempts at collective production.

This progression from applying for land as a group to using land collectively is not inevitable, however, especially if beneficiaries were given (or insisted upon) greater freedom of choice. The most immediate explanation for the lack of subdivision is the requirement imposed by officials of the Department of Land Affairs, provincial Departments of Agriculture (responsible for vetting land reform applications) and the Regional Land Claims Commissioners (responsible for restitution settlements), as a condition of grants and settlement awards, that groups implement 'whole farm' plans that conform to the imagined norms of large-scale commercial farming. In this, the state is supported by

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post-acquisition failures of production, but also to the slow pace of land transfer.

the vast majority of agricultural economists and commercial farmers in the country who are clearly hostile to a radical restructuring of the existing commercial agricultural sector based on large farms. Applications that propose small-scale production or break-up of existing farm units, especially non-commercial (i.e. 'subsistence') purposes, have little or no hope of being approved under the current system.

The retention of former commercial farms as undivided properties is, however, only one aspect of the farm model being imposed as part of the South African land reform, although an important one. In many other ways as well, groups of generally resource-poor, risk-averse and inexperienced black farmers are required to conform to the imagined ideal of an individual commercial farmer. This starts with the 'business plan' which is typically drawn up by consultants or officials of the Department of Agriculture officials who have been exposed only to large-scale commercial farming and, as argued above, relates almost entirely to the physical properties of the land and hardly at all to the socio-economic characteristics of the new owners. Production for the market is usually the only objective, and plans typically require substantial loans from commercial banks, purchase of heavy equipment, selection of crop varieties and livestock breeds previously unknown to the beneficiaries, hiring of labour (despite typically high rates of unemployment among members themselves) and often the appointment of a full-time of a full-time farm manager – most of which usually fails to materialise.

Thus, a defining characteristic of South African land reform policy is that beneficiaries – no matter how poor or how numerous – are required to step into the shoes of former white owners and continue to manage the farm as a unitary, commercially-oriented enterprise, while alternative models, based on low inputs and smaller units of production are actively discouraged. This inappropriate model, and the tensions within beneficiary groups that

emerge from it, are largely responsible for the high failure rate of land reform projects, as discussed below.

### *Post-settlement support*

In terms of market-led land reform, beneficiaries should not rely exclusively on the state for post-settlement support services, but should be able to access services from a range of public and private providers. Indeed, the past two decades have seen a major reduction in the overall state services available to farmers, but while large commercial farmers have generally managed to overcome this through access to a range of commercial and cooperative services, land reform beneficiaries and other small-scale farmers are largely left to fend for themselves (Vink and Kirsten 2003). Recent studies show that land reform beneficiaries experience numerous problems accessing services such as credit, training, extension advice, transport and ploughing services, veterinary services, and access to input and produce markets (HSRC 2003; Hall 2004b; Wegerif 2004; Bradstock 2005).

Services that are available to land reform beneficiaries tend to be supplied by provincial departments of agriculture and a small number of non-governmental organisations, but the available evidence would suggest that these only serve a minority of projects. In a study of LRAD projects in three provinces, the HSRC found that "... in many cases there is still no institutionalised alternative to laying the whole burden of training, mentoring and general capacitation on the provincial agricultural departments" (HSRC 2003: 72). In a study of nine LRAD projects in the Eastern Cape Province, Hall (2004b) found not one had obtained any support from the private sector and most had not had any contact with the Department of Land Affairs since obtaining their land; two had received infrastructure grants from the Department of Agriculture, but none were receiving any form of extension service. In November 2005, the Minister for Agriculture and Land

Affairs told parliament that 70% of land reform projects in Limpopo province were dysfunctional, which she attributed to poor design, negative dynamics within groups, and lack of post-settlement support<sup>21</sup>.

For Jacobs (2003), the general failure of post-settlement support stems from a failure to conceptualise land reform beyond the land transfer stage, and poor communication between the national Department of Land Affairs (responsible for land reform) and the nine provincial Departments of Agriculture (responsible for state services to farmers):

*The rigid distinction in South Africa's land policy between land delivery and agricultural development has resulted in post-transfer support being largely neglected. There is no comprehensive policy on support for agricultural development after land transfer and the agencies entrusted with this function have made little progress in this regard. Agricultural assistance for individual land reform projects is ad hoc ... (Jacobs 2003: 7).*

This lack of coordination between the key departments of agriculture and land affairs is compounded by poor communication with other key institutions such as the Department of Housing and the Department of Water Affairs and Forestry, as well as local government structures (Hall et al 2004). The need for additional support for land reform beneficiaries has of late been acknowledged by the Ministry of Agriculture and Land Affairs and has led to the introduction, in the national budget for 2004/05, of a new Comprehensive Agricultural Support Programme (CASP), with a total of R750 million allocated over five years. In addition to this grant facility, plans are underway to reintroduce the previously discontinued Agricultural Credit Scheme, also aimed at small and 'emerging'

farmers (but not exclusively land reform beneficiaries) (Hall and Lahiff 2004).

The well-developed (private) agri-business sector that services large scale commercial agriculture has shown no more than a token interest in extending its operations to new farmers, who in most cases would be incapable of paying for such services anyway. The assumption that the private sector would somehow 'respond' to demand from land reform beneficiaries with very different needs to the established commercial farmers has not been demonstrated by recent experience. The principal explanation for this, of course, is that land reform beneficiaries are, on the whole, so cash-strapped that they are not in a position to exert any effective demand for the services on offer, even if these services were geared to their specific needs.

## ***Impact of land reform***

Very little data is available on the impact of land reform on agricultural production or on the livelihoods of beneficiaries. What is available, however, points to widespread underutilisation of land and minimal benefits for most participants.

The context in which new and existing resource-poor farmers operate is often hostile, due to changes in world and local markets and in government policy. At a general level, Vink and Kirsten (2003) argue that conditions in the communal farming areas have remained largely unchanged or may even have worsened after eight years of land reform, and suggest that there is "no evidence that the supposed beneficiaries of land reform are better off because of their participation in the programme". Similarly, Seekings and Natrass (2005) make an explicit links between changes in the agricultural economy and increasing poverty, and to link this further to failures in the land reform programme. Instead of increasing employment in agriculture, they argue, governments macro economic policies have

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<sup>21</sup> "Didiza offers reasons for Limpopo failures", in *Farmers Weekly*, 18 November 2005.

caused it to fall dramatically, swelling the ranks of the unskilled unemployed.<sup>22</sup>

*“Overall ... government policy has not succeeded in being pro-poor. Farm workers have experienced continued retrenchments and dispossession, despite supposedly protective legislation. Land reform has not benefited the poor significantly. The reforms that have been implemented have generally been to the benefit of a constituency that was already relatively advantaged. In this crucial sector, the post-apartheid distributional regime has not resulted in improved livelihoods for the poor”.* (Seekings and Nattrass 2005: 357)

On the more positive side, authors such as Deininger and May (2000: 17) point to the *potential* of smallholder agriculture to contribute to agricultural employment and poverty alleviation, but, other than demonstrating that land reform was successfully targeting the poor, were unable to provide evidence that such potential was being realised in practice:

*... the fact that economically successful projects reached significantly higher levels of poor people suggests that increased access to productive assets could be an important avenue for poverty reduction. Given the importance of developing a diverse and less subsidy-dependent rural sector, a suitably adapted land reform could play an important role in the restructuring of South Africa’s rural sector.*

DLA’s Quality of Life survey of 1999 found that only 16 per cent of projects were delivering ‘sustainable’ revenues (May and Roberts, 2000:14), while the subsequent study of 2002 found that “in many projects no production is happening and some beneficiaries are worse off” (Ahmed et al, 2003).

Most studies to date have looked at the impact of land reform at a project or

household level, with less attention being paid to the wider impact of land reform on agricultural production and local economies. In a study from the Eastern Cape province, Aliber et al (2006) found a drop in production (relative to previous owners of the same farms) alongside modest improvements in the livelihoods of those who now own the land. Thus, welfare (equity) objectives were being achieved, to some degree, but at the expense of growth (efficiency). In a district study from a high-value wine and fruit belt in the Western Cape, Kleinbooi et al. (2006) show that land reform has not led to any major changes in land use and only very modest contributions to livelihoods. Only twelve projects have been established in the area, and of these only two have involved the transfer of land ownership. The rest have been farm worker equity schemes and tenure projects for farm workers. The impact on beneficiaries has been ‘limited, but not negligible’, largely taking the form of improving quality of or tenure rights to housing on farms. Cash dividends, the major benefit anticipated in equity schemes, have been paid out only once, and in only one scheme.

## **Budgets**

Allocations in the national budget have imposed overall limits on the redistribution programme to date, but the inability of the DLA to spend its budgetary allocation in successive years have been a greater problem. Overall, the budget for land reform has grown dramatically year on year (see Graph) but DLA consistently failed to use all its funds until 2002/03, when it managed to spend its entire capital budget for the first time. This led to cases of DLA approving projects for which funds are not available, and being unable to process new projects. In both the Western Cape and Eastern Cape, for example, provincial offices of DLA discouraged new grant applications during 2003 because of the backlog of existing commitments. By February 2004, the total backlog of

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<sup>22</sup> Some of the dimensions and outcomes of these processes are well captured in work by du Toit (2003) and Wegerif et al. (2005)

redistribution and tenure projects that had been approved, but for which no funding was yet available, amounted to R587 million - more than double the funds available for land purchase during that financial year (Hall and Lahiff 2004). By 2005/06, however, spending by DLA was again unable to keep up with an increasing budget. Out of a total budget of R3.8 billion, the allocation for restitution was under-spent by R800 million (30%) and for redistribution was under-spent by R150 million (21%). This led to the projected budgets for 2006/07 and 2007/08 being revised downwards.

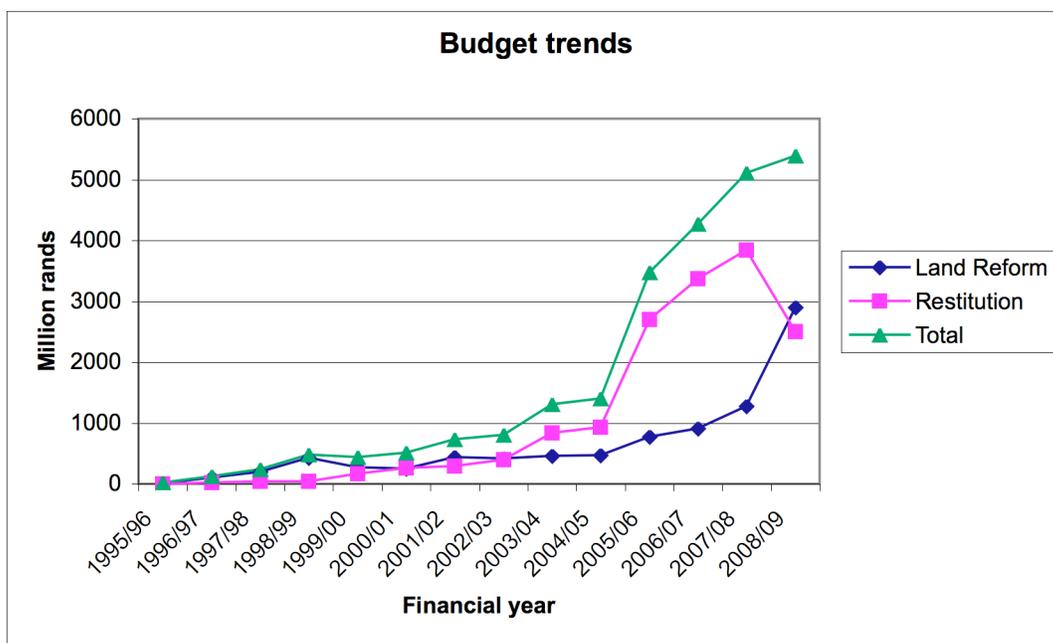
Rising budgets, and substantial under-spending, suggests that finance cannot be the main constraint to speeding up the delivery of land reform in South Africa. The following graph shows the growth in the budget for land reform since 1995. The trend has been generally upwards, with a dramatic increase for Restitution since 2005/06 and much slower growth for the rest of land reform. Note that the category

'Land Reform' includes both the redistribution and the tenure reform programmes, whereas Restitution is a separate line item. Restitution is expected to decline dramatically after 2008, with substantial shifts in resources into the redistribution programme.

## Monitoring and Evaluation of the land reform programme

The need for ongoing monitoring and evaluation (M&E) of a major national programme such as land reform has been widely recognised from the outset. As the scale and complexity of the land reform programme developed, however, the official M&E functions within the Department of Land Affairs have not kept pace, with the result that major information gaps now exist across all aspects of the programme. "A lack of good quality systems to generate

Figure 1: Land Reform Budget 2006/07 for Land Reform and Restitution (including estimates for the Medium Term Expenditure Framework ) and combined total.



information on the poverty impact of reforms is a programme design flaw and demonstrates a lack of focus on the processes meant to transform land into sustainable livelihoods ...” (Chimhowu 2006: 31). This raises concerns around the ability of DLA to effectively manage its programmes, the reliability of statistical information coming into the public domain and the prospects for determining the impact of reforms on intended beneficiaries.

At the most basic level, for many years no reliable or standardised systems were in place for recording data in provincial offices, or for reporting such data to national office. Fundamental problems with the collection, analysis and reporting of statistics run across all aspects of the land reform programme (Hall 2004a).

Between 1997 and 2003, three ‘Quality of Life’ surveys were conducted to investigate the impact of land reform on beneficiaries nationally. The first<sup>23</sup> and third<sup>24</sup> in the series have been widely criticised for their sampling methods and quality of their findings, and are considered unreliable. The other (May and Roberts 2000) utilised a more robust methodology and provided

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<sup>23</sup> “An independent assessment of the report concluded that the study was not sufficiently detailed to permit the assessment that was required by DLA. The assessment also questioned the sampling procedures that were used, and the way in which these were implemented, raising the concern that the study may not be representative or sufficiently rigorous for the purposes of monitoring” (May and Roberts 2000).

<sup>24</sup> The research was contracted to a Cape Town-based social survey company, with no experience in the land sector and major problems were been reported with sampling, with the redesign of the research instruments and with the analysis of the data, of which the most worrying was the inability to locate *any* of the respondents in the sample provided by DLA (Ahmed et al. 2003)

some useful findings, but as it was conducted at a relatively early stage in the land reform process, its findings on the impact of land reform were very limited. Changes in research design between surveys also created severe difficulties in comparing the results from each. A further such study is due to report in late 2007.

A comprehensive and effective M&E system will require a number of components, to include the following (none of which are in place at present):

- Collection of information on all applications to the programme (including those refused funding)
- Detailed socio-economic profiling of all beneficiaries entering the programme (in order to throw light on targeting and to provide a baseline for subsequent livelihood impact assessment)
- Detailed information on land transferred (agro-ecological conditions, size, cost)
- Detailed consumption, expenditure, and asset data for beneficiary households and an appropriate control groups.
- Adherence to a standardised process of project planning, implementation and support (with reporting of all milestones)
- Effective centralised management, processing and reporting of all data emerging from the programme
- Recurring national studies to include systematic panel surveys, case studies etc.
- Structured processes for feedback of M&E data into policy making.

## ***New Policy Issues currently under consideration***

Over the years, various changes to land policy have been proposed. This section looks briefly at some of the main proposals

from within and outside government, which have not yet become official policy. Many of these were debated at the National Land Summit of July 2005 and firm policy proposals on some of them are said to be imminent.

### *Scrapping 'willing buyer, willing seller'*

Strong opposition to the WSWB approach has been expressed by much of civil society since the beginning of the land reform programme, but clear policy alternatives have yet to emerge. Opposition has largely been around the payment of full market price, with alternatives ranging from payment of 'productive' (i.e. agronomic) price to confiscation without compensation being proposed. Less attention has been paid to the question of land targeting and the ending of the landowner veto over sales through, for example, granting the state the right of first refusal on all land sales (although this appears to be under consideration within DLA). Nationalisation of land has been proposed from time to time but does not appear to enjoy popular or political support.

### *Restrictions on land ownership*

A variety of measures have been proposed by civil society organisations to restrict land ownership but none have yet been translated into policy. These have included ceilings on land ownership (i.e. maximum sizes, related to agro-ecological zones), 'one man, one farm', and restrictions on the ownership rights of foreigners. In 2006, an expert panel was appointed to look into the possibilities of placing legal restrictions on ownership of land by foreigners. The report of the panel is currently being considered by cabinet.

### *Land Tax*

The absence of a land tax in South Africa has drawn attention over the years,

especially from economists and from the World Bank. Within South Africa there appears to be no significant support for such a measure either from civil society or from government, which tends to see it as an extra administrative burden and counter to their efforts to reduce the overall tax take. Needless to say, it is strongly opposed by landowners. The matter has been further complicated of late by the introduction of municipal levies on agricultural land, which are widely seen as a tax on land.

### *Proactive Land Acquisition Strategy (PLAS)*

The 'demand led' approach to land reform has - in practice, but perhaps not inevitably - led to a highly reactive approach to land acquisition on the part of the South African state. Calls from civil society for the state to take a more proactive approach to the identification and acquisition of land in areas of high demand have, up to recently, been resisted by DLA (Lahiff 2007: 9), but in 2006 the Department began developing policy in this area.

*The [proposed] focus is on the State as a lead driver in land redistribution rather than the current beneficiary-driven redistribution. This means that the State will proactively target land and match this with the demand or need for land. (DLA 2006a)*

Under this approach, the state, or an intermediary trust (e.g. a Section 21 non-profit company) will become the initial owners of the land, rather than the beneficiaries. This creates possibilities for the state to provide lease land to targeted beneficiaries on a trial basis while they become established, prior to transfer of title. To date, this approach has been piloted in Mpumalanga province. The system of land acquisition, however, remains voluntary with full market-related prices being paid.

### *Area-based land reform (or Areas-Based Planning)*

The uncoordinated approach to land acquisition, and the difficulties this has presented for resettlement and provision of support services, has led to proposals for a more integrated, area-based approach to land reform with a greater role for local government. Such an approach has been attempted in the Makhado local municipality with the cooperation of a local NGO (Nkuzi Development Association) and support from the United Kingdom's Department for International Development (DFID). It is currently being considered by DLA for implementation in a number of pilot sites, based on local municipality boundaries (DLA 2006a).

### *Agricultural Broad-based Black Economic Empowerment (AgriBEE)*

Like other initiatives to transform the economy and society, land reform is now considered as a means of achieving black economic empowerment, as required by the Broad-based Black Economic Empowerment Act of 2003. A draft of the Agricultural Broad-based Black Economic Empowerment (AgriBEE) charter was released in July 2004, and further modified at the AgriBEE *Indaba* (summit) in November 2005. The process leading up to the release of the draft charter involved two years of consultations between AgriSA, the main organisation representing white landowners, the National African Farmers' Union and the National Department of Agriculture, which have been unfolding since they adopted the Agricultural Sector Plan in 2002 in the Presidential Working Group on Agriculture. However, key groups such as the trade unions organizing in agriculture, and the Landless People's Movement, complain that they have not been consulted (Hall 2004a). The draft Charter reiterates the existing target of redistributing 30% of agricultural land to black South Africans by 2014, but also sets

ambitious targets for the deracialisation of ownership, management and procurement in the agricultural sector, including 35% black ownership of existing and new enterprises by 2008 (National Department of Agriculture 2004). The targets apply throughout the value chain rather than just at farm level, including value adding and processing industries in secondary agriculture. However, the BEE focus on deracialising demographics in shareholding, management and procurement is relevant mainly to larger farms and other enterprises in the agribusiness sector. In this sense, the charter is effectively an agribusiness charter. It is not clear what measures are envisaged for the majority of the landowners in the farming sector, nor how it will empower farm workers and smallholders who are marginalized within the sector (Ministry of Agriculture and Land Affairs 2005b).

### ***Emerging partnerships among stakeholders***

Given the 'negotiated' basis of land reform in South Africa, there has been a remarkable lack of formal agreement between main players – state, landowners and targeted beneficiaries. Within the agricultural sector, the Presidential Working Group on Agriculture has brought together AgriSA (the main organisation representing white farmers), the National African Farmers' Union and the National Department of Agriculture, and has led to the adoption of the Agricultural Sector Plan in 2002, but this lacks any involvement by organizations of the landless and generally avoids matters of land reform policy. No equivalent forum exists for the land sector. The National Land Summit of July 2005, and the resolutions emerging from it, revealed the isolation of white landowners from virtually all other parties, especially the landless but also the state, at least at the rhetorical level (see Box, below).

***Summary of Resolutions Adopted at the National Land Summit, July 2005.***

*On Land Restitution*

- speeding up the process of settling rural claims and restoring land to claimants
- expropriating land under claim where negotiations with current landowners fail
- re-opening the lodgement process for eligible restitution claimants who missed the 1998 deadline
- improving development planning for claimants who have returned to their land
- a holistic approach to restitution of mineral rights and rights to water and forests, as well as land
- a Restitution Truth and Reconciliation Commission to hear people's experiences of dispossession and to bring healing and closure.

*On Redistribution*

- a proactive role for the state to acquire land through negotiated purchase and, where necessary, expropriation
- increased resources to appoint new staff and enable state agencies to take on this new role
- regulation of land markets through a moratorium on foreign land ownership, a ceiling on the size of land holdings, a right of first refusal for the state on all sales of agricultural land, and the imposition of a land tax to curb speculation and bring under-utilised land onto the market
- proactive subdivision of farms to make available parcels of land appropriate to the needs of smallholders
- targeting the poor, specifically women, farm workers and the youth
- payment of 'just and equitable' compensation for land, in line with the Constitution, rather than market prices
- a social obligations clause in the Constitution, to legally protect landless people who occupy certain categories of land
- local government to identify land needs and land to meet these needs, and to stop renting municipal commonage to commercial farmers
- state support for small-scale farming by the poor and a moratorium on 'elitist' developments such as golf courses and game farms.

*On Tenure reform*

- a new law to secure farm dwellers' tenure rights, independent of their employment status, and to create a class of 'non-evictable occupiers'
- a moratorium on evictions of farm dwellers until a new law and effective systems for its enforcement are in place
- provision of basic services to farm dwellers, including water and sanitation
- land for farm dwellers so that they can become farmers in their own right.

*Source: Hall, 2005.*

## A silent revolution in agriculture?

Throughout South Africa, small local private sector and civil society initiatives are working to make the agricultural sector more equitable, stable, and profitable for everyone involved. Additional research is needed about these initiatives, but it could be that, working quietly and locally, they are doing at least as much for sustainable land reform as the government programmes. Initiatives recorded over the past five years have included:

- The Land for Peace Initiative – a loose coalition of commercial farmers, land owners, and private sector individuals working to encourage greater private sector involvement in land reform.
- The Red Meat Producers’ Organisation has established the National Emergent Red Meat Producers’ Organisation, and has also recommended that a ‘strategy should be implemented to provide technical services and credit services to emergent red meat producers’.
- The Grain Producers’ Organisation has embarked on production and marketing support for emergent farmers in North West, and is also active in other provinces. It also has a development office in Zeerust, and holds regular information and training sessions where expertise with regard to the planting, fertilisation, chemical treatment, and harvesting of oil seeds is offered.
- Boeresake, Bellville has donated tractors to emergent farmers, and provides them with ongoing assistance.
- The Coastal Farmers’ Co-operative in KwaZulu Natal has established three sub-depots for delivering services to small cane growers.
- MKTV-Tobacco assists new farmers in the Vryheid, Klerksdorp, Rustenburg, and Ventersdorp areas.
- SOK is financing 94 emergent farmers at a cost of R2,4 million. New farmers are established on one- to two hectare farms. The farms are under apple orchards.
- Senwes is involved in establishing emergent farmers at Odendaalsrus, Koppies, and Oppermansgronde.

Source: CDE 2005: 16

At a more local level, however, a range of partnerships have emerged amongst stakeholders in the land sector, within but also outside of the formal land reform programme. Notable examples are the sugar industry and the wine industry, but individual examples may be found across the country, as itemised by the Centre for Development and Enterprise (see Box, below).

Share equity schemes also represent a form of partnership but, as discussed above, the benefits of these schemes for workers in terms of either secured land rights or other material benefits have been very limited. In a number of cases, white farmers (neighbours or, in some cases, the former landowners) have served as mentors to land reform

beneficiaries, although this tends to be on an isolated and ad hoc basis.

Under the restitution programme a range of so-called ‘strategic partnerships’ have also been established, as previously dispossessed communities lay claim to a range of valuable – and often well-developed – resources. Notable examples include the Makuleke claim on a portion of the Kruger National Park, where the community has entered into profit-sharing agreements with the National Parks Board and with a number of private tourism operators who have established up-market lodges on the restored land. At Zebediela Citrus Estate, in Limpopo, the Bjatladi community has entered into a ten year management and share-holding agreement with a private agribusiness company which promises revenue for the

community through dividends and land rental, plus opportunities for employment, training and participation in management. This model of strategic partnerships is set to be extended over many of the larger claims on high-value agricultural land in Limpopo, although they have been criticized for the lack of certainty around community benefits and the fact that they effectively exclude community members from direct access to their land for ten years or more (Derman et al 2006).

## **Conclusion**

Land reform is an important aspect of social and economic transformation in South Africa, both as a means of redressing past injustice and alleviating the pressing problems of poverty and inequality in the rural areas. The South African land reform programme is founded on the country's Constitution, and has the potential for far-reaching change across restitution, redistribution and tenure reform. The policies that have been adopted by the state, however, have been problematic from a number of perspectives, and have fallen far short of their delivery targets. Even where land has been transferred, it would appear to have had minimal impact on the livelihoods of beneficiaries, due largely to inappropriate project design, a lack of necessary support services and shortages of working capital, leading to widespread under-utilisation of land. There is no evidence to suggest that land reform has led to improved efficiency, job creation or economic growth.

Some gains have undoubtedly been made, but these remain largely at the symbolic level. Where real material advances have occurred, these can generally be attributed to the involvement of third parties, either individual mentors, agribusiness corporations, NGOs or eco-tourism investors.

The evidence of the past twelve years suggest that current policies, based on acquisition of land through the open market, minimal support to new farmers and the bureaucratic imposition of collectivist models loosely based on the existing commercial operators, are unlikely to transform the rural economy and lift people out of poverty. What is clearly missing at present is any small-farmer path to development, which could allow the millions of households residing in the communal areas and on commercial farms to expand their own production and accumulate wealth and resources in an incremental manner. This would undoubtedly require radical restructuring of existing farm units, in order to create 'family-sized' farms, more realistic farm planning, appropriate support from a much-reformed state agricultural service and a much greater role for beneficiaries in the design and implementation of their own projects. Recent policy proposals – which mainly focus on the process of land acquisition – do not seem to offer much in this direction. Much more will be required if the land-based economy is to contribute significantly to economic growth and to the redistribution of wealth and opportunities to the majority of the population.

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