

Land Redistribution in South Africa -- A Critical Review

Edward Lahiff and Guo Li*

May 28, 2012

Abstract

This paper provides an overview of land reform in South Africa from 1994 to 2011, with the focus on the land redistribution. The government policies and associated implementation since 1994 have not generated expected social and economic results for a number of reasons. Even where land has been transferred, it appears to have had minimal impact on the livelihoods of beneficiaries, largely because of inappropriate project design, a lack of necessary support services and shortages of working capital, leading to widespread underutilization of land. There is no evidence to suggest that land reform has led to improvements in agricultural efficiency, income, employment or economic growth. Therefore, the current approach -- based on acquisition of land through the open market, minimal support to new farmers, and bureaucratic imposition of production models loosely based on existing commercial operators -- is unlikely to transform the rural economy and lift people out of poverty. The paper argues that there are two important missing aspects in the land reform program. First, there is an absence of any viable small-farmer path to development, which could enable 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. Making this happen would require radical restructuring of existing farm units to create family-size 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. Second, what is clearly missing from the governance tradition is the sustained focus on implementation, resource mobilization, and timely policy adjustment. Much more will be required for land reform program to contribute significantly to economic growth and to the redistribution of wealth and opportunities to the majority of the population.

* Dr. Edward Lahiff is a lecturer of University College Cork, Ireland; Dr. Guo Li is a Senior Agriculture Economist of the World Bank, based in Pretoria, South Africa. This paper is a revised and updated version of an earlier book chapter. The findings, interpretations, and conclusions expressed in the paper do not necessarily reflect the views of the Executive Directors of the World Bank or the governments they represent.

ABBREVIATIONS

AgriBEE	Agricultural Broad-based Black Economic Empowerment
ANC	African National Congress
CASP	Comprehensive Agricultural Support Program
ClaRA	Communal Land Rights Act
CRDP	Comprehensive Rural Development Program
DLA	Department of Land Affairs
DRDLR	Department of Rural Development and Land Reform
ESTA	Extension of Security of Tenure Act of 1997
FAO	Food and Agriculture Organization
GDP	Gross Domestic Product
HRSC	Human Sciences Research Council
LMC	Land Management Commission
LRAD	Land Redistribution for Agricultural Development
LRMB	Land Rights Management Board
LRMCs	Land Rights Management Committees
M&E	Monitoring and Evaluation
NGOs	Nongovernmental Organizations
OECD	Organization for Economic Co-operation and Development
PLAAS	Institute for Poverty, Land and Agrarian Studies
PLAS	Pro-active Land Acquisition Strategy
SLAG	Settlement/Land Acquisition Grant
SPLAG	Settlement/Production Land Acquisition Grant
WSWB	Willing Seller–Willing Buyer

1. Introduction

Successful rural development and land reform is crucial for South Africa's economic and social future. As shown by international experiences in the past few decades, rural development is a strong option for spurring overall economic growth, poverty reduction, and enhancing food security (World Bank, 2008). Having a vibrant and sustainable rural sector has also been proven vital for stimulating growth in other parts of economy, particularly when a country is experiencing a rapid urbanization. As to South Africa, rural development and land reform carries additional strategic significance for achieving a higher degree of economic and social equity, creating more employment, and building stronger social cohesion -- objectives which, to date, have largely not been achieved. It is not an exaggeration to argue that success or failure in rural development and land reform will play a crucial role in determining the shape and trajectory of South Africa's economic and social future.

This paper provides an overview of land reform in South Africa from 1994 to 2011. The focus of the paper is the land redistribution program, but it touches briefly on restitution and tenure reform programs. The paper begins with a brief sketch of the historical background, before outlining the main aspects and achievements of the land reform programs to date. The final sections of the paper examine some key challenges and new policy proposals facing land reform in South Africa.

2. Origins and Patterns of Land Concentration

The extent to which the indigenous people of South Africa were dispossessed by European colonists -- mainly Dutch and British settlers -- was greater than in any other country in Africa, and it persisted for an exceptionally long time. European settlement began around the Cape of Good Hope in the 1650s and progressed northward and eastward over a period of 300 years. By the early 20th century, most of the county, including most of the best agricultural land, was reserved for the minority white population, with the African majority confined to the Native Reserves, (later, African Homelands or Bantustans), which constituted just 13 percent of the country. From the 1960s, the decolonization of Africa was resisted strenuously by the settler-colonies of southern Africa, with the result that South Africa did not make the transition from the race-based system of Apartheid to democratic, nonracial government until 1994.

At the end of Apartheid, approximately 82 million hectares of commercial farmland (86 percent of all farmland) was in the hands of the white minority (10.9 percent of the population), and concentrated in the hands of approximately 60,000 owners.¹ Over 13 million black people, the majority of them poverty stricken, remained crowded into the former homelands, where rights to land generally were unclear or contested. These areas were characterized 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.

¹ In 1996, the South African Census reported a total population of 40.5 million, broken down in the following terms: African for 76.7 percent; White, 10.9 percent; Colored, 8.9 percent; Indian/Asian, 2.6 percent; and unspecified, 0.9 percent (Statistics South Africa 1996).

The transition from Apartheid to democracy occurred through a negotiated settlement rather than an all-out war of liberation. This political compromise left intact much of the power and wealth of the white minority, including property rights. The new constitution -- finalized in 1996 -- created the basis for a liberal democracy, albeit with an emphasis on socioeconomic 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 program.

South African agriculture is of a highly dualistic nature, where a developed commercial sector coexists with large numbers of small farms on communal lands (OECD, 2006; Department of Agriculture, 2007). The commercial sector generates substantial employment² and export earnings, but contributes relatively little to GDP in this highly urbanized and industrialized economy: agriculture's share of GDP fell from 9.12 percent in 1965 to just 3.2 percent in 2002 (Vink and Kirsten, 2003) and has been further reduced since then. Although close to half of the African population continues to reside in rural areas (Statistics South Africa, 2006), most are engaged in agriculture on a very small scale, if at all; and they depend largely on nonagricultural activities, including migration to cities, local wage employment, and welfare grants, for their livelihoods.

3. The Legal and Policy Basis for Land Reform

Land reform in South Africa, therefore, seeks to address over 350 years of race-based colonization and dispossession, as part of the transition to a democratic society. Since 1994, South Africa has embarked on a multifaceted program of land reform designed to redress the racial imbalance in landholding and secure the land rights of historically disadvantaged people. Progress and impact in all areas of the program generally is considered to have fallen far behind expectations and official targets.

The Constitution of the Republic of South Africa sets out the legal basis for land reform, particularly in its Bill of Rights, which places a clear responsibility on the state to carry out land and related reforms and grants 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" in April 1997 (Department of Land Affairs, 1997). Proposals to revise the White Paper have been under discussion for many years, and culminated in the release of a draft Green Paper in September 2011 (see Section 6). Since 1994, land reform policy has been approached under three main headings:

- *Land restitution*, which provides relief for certain categories of victims of dispossession;

² Agriculture accounted for 10 percent of formal employment in 2002 (Vink and Kirsten 2003, p. 6).

- *Tenure reform*, which intends to secure and extend the tenure rights of the victims of past discriminatory practices; and
- *Redistribution*, which focuses on acquiring land for certain categories of people through purchases on the open market.

The land reform program thus aims to achieve objectives of both equity (in terms of land access and ownership) and efficiency (in terms of improved land use), while also contributing to the development of the rural economy. These objectives, and the preferred means of achieving them, are described in the 1997 White Paper: “[T]he purpose of the land redistribution program 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 program aims to assist the poor, labor 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” (Department of Land Affairs, 1997).

4. Land Reform Programs and Its Implementation Since 1994

Land Restitution: Reclaiming Historical Rights

The legal basis for restitution was created under the Restitution of Land Rights Act 1994, which provided for the restitution of historical land rights to people or communities dispossessed under racially based laws or practices after June 19, 1913. The Commission on 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 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; and provision is made for three broad categories of relief: restoration of the land under claim, granting of alternative land, or financial compensation.

The cut-off date for lodgment of restitution claims was December 31, 1998; the total number of claims lodged by the cut-off was 76,696, including individual (or family) and community claims. Over sixty thousand of the claims lodged related to urban land: all were settled by 2009, the great majority by means of cash compensation, although there have been some notable land restorations such as the District Six area in Cape Town. Rural claims, many of which involve large communities claiming extensive properties from both private and public owners, have proved to be particularly difficult and costly to settle, specifically if the claims involve sectors such as forestry and mining. According to figures obtained by PLAAS (May 2011), a total of 10,274 rural claims had been settled by the end of March 2011³. In 2010, the Department of Rural Development and Land Reform (DRDLR, 2010) reported a total of 4,560 outstanding land claims; since then, it would appear that at least 457 were settled, leaving something in the order of 4000 outstanding claims, all of which appear to be rural (DRDLR, 2011).

Given the large areas of often high-value agricultural land restored to communities under the restitution program, and widespread reports of underutilization of land or collapses in

³ Of these, 4,680 were settled through restoration of land; 4,695 by financial compensation (i.e. no land), and 436 by alternative remedies (mostly housing in public projects).

agricultural production, various attempts have been made involve private-sector commercial partners in restitution projects, usually referred to as ‘strategic partnerships’, with mixed results (Derman et al., 2006; Lahiff et al., 2012). Since 2010, a number of restitution cases have been included in the DRDLR’s ‘Recapitalization and Development Program,’ whereby public funds have been used either to provide on-farm infrastructure or to finance commercial partnerships.

Tenure Reform: Securing Land Rights

Tenure reform in rural South Africa refers both to the protection and the strengthening of the rights of occupiers of privately owned farms and state land (for example, farm workers and tenants), and to 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 legally owned by the state, in trust for particular communities. These areas are characterized by severe overcrowding and numerous unresolved disputes in which the 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 (traditional councils) and provincial departments of agriculture, but it is in a state of collapse in many areas. For example, there is widespread uncertainty about the validity of documents (e.g., permission-to-occupy certificates), the appropriate procedures for transferring land within families, and the legality of leasing or selling rights to land (Ntsebeza 2006; Cousins 2007).

Initial 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 revised Communal Land Rights Act (CLaRA) was passed by parliament in 2004. The CLaRA intended to give secure land tenure rights to communities and individuals who occupy and use land that previously was reserved for occupation by African people and that is registered in the name of the state or is held in trust (Department of Land Affairs, 2004). Although supported by the traditional chiefs, these measures were criticized by a range of trade unions, women’s organizations, the South African Human Rights Commission, and land rights nongovernmental organizations (NGOs) as perpetuating the undemocratic rule of tribal chiefs and failing to secure the rights of individuals, especially women (Claassens and Cousins, 2008; Walker, 2003). In May 2010, following legal challenges from four rural communities, the Constitutional Court declared the CLaRA unconstitutional. A fifteen-year search for tenure reform in the country’s communal areas effectively came to a halt.

The Extension of Security of Tenure Act of 1997 (ESTA) was intended to provide 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. Although the Act makes it more difficult to evict occupiers, evictions within the law are possible, and illegal evictions remain common. A study by Wegerif et al. (2005) found that more than 2 million farm dwellers -- many of them tenant farmers engaged in independent production -- were displaced between 1994 and 2004, more than that 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

program since it began.⁴ In theory, ESTA allows farm dwellers to apply for grants for on-farm or off-farm developments (for example, housing) and gives the minister of land affairs powers to expropriate land for such developments, but neither of those measures has been used widely to date (Cousins and Hall, 2011). Where grants have been provided, they usually have involved farm residents moving off farms and into townships rather than granting them agricultural land of their own or secure accommodation on farms where they work.⁵

One category of farm dwellers -- labor tenants -- was expected to acquire much stronger legal rights. The term *labor tenant* refers to black tenants on white-owned farms who pay for their use of agricultural land through the provision of labor, as opposed to cash rental. The Land Reform (Labor Tenants) Act of 1996 aims to protect labor 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 the provinces of KwaZulu-Natal and Mpumalanga; which only a minority of those claims have been settled to date. Indeed, virtually no specific mention is made of labor tenants in recent government documents (i.e. DRDLR Annual Reports for 2009/10 or 2010/11). Neither the Labor Tenants Act nor ESTA have succeeded in meeting its chief objectives of preventing illegal evictions and securing land rights -- failures that can be attributed largely to a lack of dedicated budgets for tenure reform on the part of the Department of Land Affairs and a lack of enforcement of the law by police, prosecutors, and the courts (Hall, 2003; Human Rights Watch, 2011). A Farm Workers' Summit held in Cape Town in July 2010 highlighted the continuing problems of poor pay and conditions, and widespread mistreatment, of farmer workers and farm dwellers.

In February 2010, *Business Day* reported that less than 2% of redistributed land had gone to farm workers (including labor tenants) although it is likely that some labor tenants have been included in projects without being specifically mentioned. Commitments by successive government ministers to reform both ESTA and the Labor Tenants Act were advanced somewhat by the publication of draft Tenure Security Bill in December 2010, which would replace existing legislation in this area of farm dwellers' rights, but these proposals have yet to be passed into law.

Redistribution: Shifting the Balance of Landholding and Production

Whereas restitution and tenure reform cater to specific groups of people who have legally enforceable rights (the programs generally are referred to as "rights based"), redistribution is a more discretionary program that seeks to redress the racial imbalance in rural landholding on a more substantial scale. The legal basis for redistribution is the 1998 Provision of Land and Assistance Act (formally known as the Provision of Certain Land for Settlement Act of 1993), 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 program thus are contained in various policy documents and official statements rather than in legislation. The methods chosen by the state to bring about redistribution are mainly, although not entirely, based on the operation of the

⁴ Of an estimated 2,351,086 people displaced from farms since 1994, a total of 942,303 (40 percent) were found to have been evicted; others left for a variety of social and economic reasons (Wegerif et al. 2005, p. 7).

⁵ Cousins and Hall (2011, p14) point to widespread failure of the policy, a decade of fruitless policy review, ongoing evictions of farm-dwellers and a general shift away from the language of rights to one of productivity and economic efficiency.

land market, although this is not a strict constitutional requirement. Other measures, such as expropriation, are available to the state, but have not been used widely so far. Redistribution policy has undergone a series of changes since 1994, with gradual shifts from a focus on poorer beneficiaries to the somewhat better-off, and from a relatively passive to a more pro-active role for the state in land purchases.

The defining feature of South Africa's redistribution policy to date -- and the one that has been most controversial within the country -- has been the reliance on voluntary purchase of land at market prices, a policy widely referred to as 'willing seller-willing buyer'. The concept of willing seller-willing buyer (WSWB) gradually entered the discourse around land reform in South Africa during the period 1993-96, reflecting the rapid shift in economic thinking within the African National Congress -- the dominant party within the liberation movement -- from left-nationalist to neoliberal (Lahiff, 2007). The principle was absent entirely from the ANC's "Ready to Govern" policy statement of 1992, which instead advocated expropriation and other nonmarket mechanisms; and from the Reconstruction and Development Program, the manifesto on which the party came to power in 1994. An extensive program of consultation by the newly-created Department of Land Affairs, both within the country and with international advisers, led to a new policy direction, outlined in the 1997 White Paper on South African Land Policy, which made a market-based approach -- and particularly the WSWB concept -- the cornerstone of land reform policy (World Bank, 1994; Williams, 1996; Government of South Africa, 1997; Hall et al., 2003). Such an approach was not dictated by the South African Constitution but can be seen as a policy choice in line with emerging international trends and with the macroeconomic strategy (the Growth, Employment, and Redistribution Strategy) adopted by the ANC in 1996.

Until 2000, redistribution policy centered on the provision of the Settlement/Land Acquisition Grant (SLAG -- later renamed the Settlement/Production Land Acquisition Grant, SPLAG), a grant of R16,000 to qualifying households with an income of less than R1,500 a month. This phase of redistribution generally was described as targeting the "poorest of the poor," which appears to have done with some success. However, it also was criticized widely for "dumping" large groups of poor people on former commercial farms without the skills or resources necessary to bring them into production. From 2001, SLAG was largely replaced by the Land Redistribution for Agricultural Development (LRAD) program, which was introduced with the explicit aim of promoting commercially oriented agriculture, but claimed to cater to other groups as well. LRAD offered higher grants, paid to individuals rather than to households, and made greater use of loan financing through institutions such as the state-owned Land Bank to supplement the grant. All beneficiaries were expected to make a contribution, in cash or kind, the size of which determines the value of the grant for which they qualify. In a minority of cases, groups of farm workers used grants (either SLAG or LRAD) to purchase equity shares in existing farming enterprises, especially in areas of high-value agricultural land, such as the fruit and wine lands of the Western Cape. Share-equity schemes have been criticized for perpetuating highly unequal relationships between white owner-managers and black worker-shareholders, and for providing few material benefits to workers (Mayson, 2003; Kleinbooi et al., 2006; Human Rights Watch, 2011). The farm equity program was suspended in 2009 but re-launched in 2011 in response to pressures from the government of the Western Cape Province.

Under both SLAG and LRAD, grants were issued to specific individuals who were then responsible for sourcing and negotiating the purchase of land from private owners. From 2006, however, these grant-based programs have been overshadowed by a new program known as the Pro-active Land Acquisition Strategy (PLAS). Under this approach, the state buys land directly from owners, without necessarily identifying intended beneficiaries in advance. This state-owned land is subsequently allocated to approved beneficiaries on a leasehold basis for three to five years, following which the lessee may be allowed an option to purchase.

Achievements to Date

In terms of overall achievements, land reform in South Africa consistently has 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 program (restitution, tenure reform, and redistribution) to transfer 30 percent of white-owned agricultural land within a five-year period (African National Congress, 1994). The target period was subsequently extended to 20 years (that is, to 2014), and in November 2009, the Director General of DRDLR suggested extending the deadline to 2025. The fact is that, in recent years, senior policy-makers played down the importance of a particularly time-scale or a percentage-based target, choosing instead to focus on qualitative target of “deracialization and productive use.”

Government has tended to attribute this slow progress to resistance from landowners and to the high prices being demanded for land,⁶ but independent studies point to a wider range of factors, including complex application procedures and bureaucratic inefficiency (Hall, 2004a). Major budgetary shortfalls in the area of restitution from 2008 to 2010, and growing concerns around the collapse of production on land acquired under both restitution and redistribution, has shifted policy away from land acquisition and towards the productive use of land.

By March 2011, it was estimated that a total of 6.27 million hectares of land had been transferred to beneficiaries under the entire land reform program; of this, approximately 55% was transferred under the redistribution program (including tenure reform and commonage) and the remaining 45% under the restitution program (see Table 1). As with other areas of the land reform program, however, detailed statistics on beneficiaries, geographical spread of projects, type of land acquired, and types of financing used generally are unavailable.

The total land area transferred is equivalent to 7.2 percent of the agricultural land under white ownership in 1994, although some of this has actually come from land previously owned by the state. To this can be added sizeable areas transferred through private market transaction; on the downside, large numbers of farm dwellers (workers, tenants and their dependents) have lost access to land on white-owned commercial farms since 1994.

⁶ Report by the Director General of DLA to the Parliamentary Portfolio Committee on Agriculture and Land Affairs, quoted in *Farmers Weekly*, November 4, 2005.

Table 1 Total Land Transfers under South Africa’s Land Reform Programs, 1994–2011

Program	Hectares transferred	Percent of total transferred
Redistribution	3,447,228	55.53
Restitution	2,760,527	44.47
Total	6,207,755	100.00

Source: South Africa, Department of Land Affairs, cited by PLAAS (*Umhlaba Wethu* 13, June 2011).

5. Key Policy Issues in South Africa’s Land Reform Program

This section examines some of the key challenges facing the land reform program, particularly in the area of land redistribution, drawing on a range of official documents, qualitative case studies, and gray literature. It also discusses some most recent policy developments.

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. This contrasts with the relatively little attention given to issues such as beneficiary selection or land use. The WSWB approach that defines the redistribution model in South Africa was based on the World Bank’s recommendations for a market-led reform, emphasizing 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 land market (World Bank, 1994). The WSWB approach also fits well with the general spirit of reconciliation and compromise that characterized the negotiated transition to democracy, although it goes considerably farther than the requirements of the 1996 Constitution. The South African approach to redistribution diverges, however, from the model promoted by World Bank in several important respects -- particularly in the failure to introduce a land tax to discourage speculation and dampen land prices, the effective avoidance of expropriation (even when dealing with difficult cases), the failure (up to very recently) to allow beneficiaries to design and implement their own projects, and the failure to promote subdivision of large holdings.

The WSWB approach has remained at the center of the South African land reform despite widespread opposition and recurring promises of “review” from government leaders. At the National Land Summit in July 2005, for example, abandonment of that approach was the uppermost demand from civil society and landless people’s organizations, and it was the subject of criticism by both the state president and the then minister of land affairs. Representatives of large-scale landowners remain broadly in favor of the approach, especially the payment of market-related prices, although they have been critical of protracted processes around land purchase and payment (Lahiff, 2007). Since 2005, repeated reference has been made to ‘reviews’ of WSWB (ongoing or planned) by the departments concerned (DRDLR, 2009), by the state president and by successive ministers for land affairs and rural development and land reform. In June 2009, for example, Minister Nkwinti told parliament that the government would scrap the WSWB system, which was too expensive and too slow in transferring land to black people.⁷

⁷ Speech by Rural Development and Land Reform Minister, Gugile Nkwinti, on his departmental budget vote, national assembly, parliament, Cape Town, June 17 2009.

Using the market as a means of acquiring land for redistribution has obvious attractions in South Africa, especially where land purchases are to be funded entirely or largely by the state. South Africa has an active land market and well-developed market infrastructure, which undoubtedly presents many opportunities for land acquisition. The weaknesses that have become apparent in the WSWB approach are largely in three areas: the suitability of land being offered for sale, the prices being demanded, and bureaucratic delays (exacerbated by budgetary shortfalls) in funding purchases.

The market-led approach as implemented in South Africa offers landowners absolute discretion in deciding whether to sell their land, to whom they will sell it, and at what price, with the result that most land that comes onto the market is not offered for land reform. Many landowners are politically opposed to land reform or they lack confidence in the process, especially the slow process of negotiation and payment. If possible, they prefer to sell their land to other buyers. There have been widespread reports suggesting that land being offered for land reform purposes is of inferior quality (Lyne and Darroch, 2003; Tilley, 2004). In addition, there have been recurring complaints -- from land reform beneficiaries, officials, and politicians -- that where land is offered, excessive prices are being demanded (Department of Land Affairs, 2005). Indeed, the high prices being paid for land have been a recurring cause for complaint in successive reports from the DRDLR, but with little reflection on failures of the state to use its available powers to secure better terms.

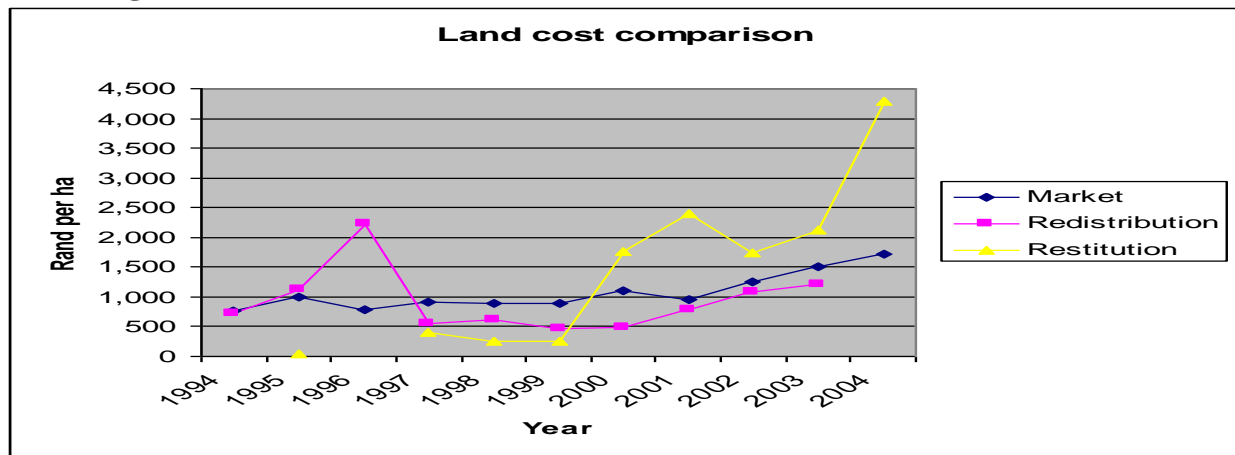
Land price information for the first decade of the land reform program (1994-2004) shows that average prices paid for land under both the redistribution and the restitution programs have diverged considerably from the pattern for the general market trend (see Figure 1). With the exception of one year within this period (1995), prices paid for land under the redistribution program have been below those of the general land market--by an average of 33 percent since 1997. By contrast, prices paid for land under the restitution program, having remained below market prices for the period 1994-99, have exceeded market prices every year since 2000, reaching as high as 2.5 times the general market price in 2004. Repeated complaints by senior policy makers suggest that this trend has continued beyond 2004, as land reform payouts continue to run far ahead of expectations, and of budgets, but whether prices paid exceed market norms remains to be tested.

Criticisms of the market-based approach that underpins WSWB center on the slow pace of land transfer, a widespread belief (inside and outside government) that landowners are receiving a price premium and a strong political sentiment -- especially from the left-wing of the liberation movement -- that white landowners should not be rewarded for land that was taken from black people by force (Ntsebeza, 2007).

The most important change in the area of land acquisition since 1994 has been the adoption, in 2005-06, of the Proactive Land Acquisition Strategy (PLAS). Emerging in the context of widespread public concern about the pace of land transfer and the high prices being paid for land, PLAS offered a more direct role for the state in identifying and acquiring land on behalf of potential beneficiaries. Provincial-level officials could now negotiate purchases directly with willing local landowners, on the basis of official estimates of land need in an area. Potential beneficiaries, who were previously responsible for identification of land and initial negotiations

with landowners now play little role in the process -- indeed, the selection of land and price negotiations are generally completed before specific beneficiaries are even identified.

Figure 1. Land Prices for Redistribution, Restitution, and the Market, 1994–2004



Source: Unpublished data from a draft report prepared by the Department of Land Affairs, the World Bank, and the Human Sciences Research Council, 2007.

Since its inception, PLAS has become the biggest single program area within redistribution, in terms of both budget and land area. For the year 2007/08, for example, land acquired under PLAS accounted for 49% of total land area, rising to 85.6% in 2010/11 (DLA, 2008; DRDLR, 2011). Under PLAS, land is registered in the name of the State and provided to approved beneficiaries by means of lease or caretakership agreements, typically of three or five years duration (DRDLR, 2009). After this period, the land may be transferred permanently to beneficiaries in terms of an LRAD, SPLAG or Commonage Grant, subject to official approval. It is unclear from official reports how much of the land acquired proactively has actually been allocated to beneficiaries, or how many leaseholders have gone on to become owners.⁸

As with previous policies, the supply of land and the price to be paid is entirely at the discretion of landowners, and there is no indication that landowners have been put under any pressure either to make land available or to compromise on price. Moreover, implicit in PLAS is the requirement that landowners are willing to participate in often-protracted processes with state officials, rather than disposing of their land through more conventional market channels. There would appear to be incentives for landowners to offer land that they might otherwise have difficulty disposing of through other channels, or in the expectation of receiving a premium price. Under such conditions, the prices paid for land are likely to reflect the (often unequal) negotiating skill of (private) sellers and (public) buyers.

The ‘proactive’ purchase of land -- presented as a means of accelerating land acquisition -- has also brought about a little-acknowledged shift from a demand-driven process (albeit a poorly performing one) to a largely supply-driven one. Land officials, eager to spend their budgets and meet their targets, and without specific beneficiaries to satisfy, now enjoy wide discretion in the selection of land and are likely to be influenced (in terms of both choice and price of land) by

⁸ In 2010/11, for example, only 3,089 beneficiaries were reported under PLAS, in 288 projects (DRDLR, 2011).

landowners willingness to sell. There is no indication, however, that higher volumes, better quality or lower prices have been achieved as a result of this policy shift.

Beneficiary Targeting

From the beginning, the intended beneficiaries of South Africa's land reform program have been defined in very broad, and almost exclusively racial, terms. The 1997 White Paper included the poor, labor tenants, farm workers, women, and emergent farmers; but no specific strategies or system of priorities were developed to ensure that such groups actually benefit. As in other areas of land reform, there is a critical shortage of data, from government or independent sources, leading to much speculation on the socioeconomic 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 served particularly poorly.

Because the redistribution program has been based largely on beneficiaries' self-selection, there is effectively no targeting of applicants in terms of income or agricultural experience.⁹ Under SLAG (from 1995 to 2000), a household income ceiling of R1,500 per month was set (but not always enforced). However, the low level of the grant and the requirement that people acquire land in groups (often comprising more than 100 people) probably were effective in targeting relatively poor people and deterring the better-off.

DLA's Quality of Life Survey conducted in 1999 found that 75 percent of beneficiaries fell below the poverty line, levels of participation by female-headed households were high (31 percent nationally), and more than 20 percent of household heads were unemployed (May and Roberts, 2000). The Quality of Life Survey in 2002 (Ahmed et al., 2003) supported the earlier survey's findings that land reform was successfully targeting the poorer sections of rural society.

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 toward small groups (often family based) of better-off applicants -- although again the data are extremely sparse. This change, and the emphasis on relatively large-scale commercial farming (in the absence of subdivision), also shifted land reform toward a simple deracialization of commercial agriculture rather than the radical restructuring that had been pictured by many people in the land sector in the early years of the program. The greater emphasis now paid to economic "viability" also was in line with an emerging policy direction centering on black economic empowerment (BEE), which emphasized the participation of black people in all sectors of the economy.

Over time, the trend has towards targeting individuals considered more likely to be successful farmers. According the Director General of DRDLR, the policy of the Department is "[T]o ensure our redistributed and restituted land goes only to people who can make optimal use of it" (DRDLR, 2009). In order to achieve this objective, the Department developed a strategy which includes the selection and categorization of land reform beneficiaries into five groups: landless

⁹ Unlike the situation in such countries as Brazil, India, and Malawi, the self-selection process in South Africa lacks 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 the country.

households; commercially-ready subsistence producers; expanding commercial smallholders; well-established black commercial farmers; and financially capable aspirant farmers. This, according to the DRDLR, will help in the appropriate design of land reform products and support services.

The Quality of Life surveys employed during the early years of the land reform were not continued through this period, and official information on the socio-economic profile of beneficiaries is virtually non-existent. The growing emphasis on effective use of redistributed land over the past decade, and the limited evidence of any effective provision for the poor (as described in the first two categories above) means that, by 2011, beneficiary selection was decreasingly on the basis of need but increasingly on the basis of ability to use land productively. On-going problems with under-utilization of land and the collapse of production in many land reform areas indicate, however, that shifts in beneficiary targeting have not been enough to overcome the deep problems being encountered by newly resettled farmers, as discussed below.

Farm Planning and Land Use

Land reform in South Africa to date has involved the transfer of relatively large commercial farms in their entirety to groups of beneficiaries. The country's large commercial farming units - typically in the range of 100 to 1,000 ha -- arose historically from a combination of ecological and political factors, including forced dispossession of black occupiers, generous state subsidies to white owners under Apartheid and various forms of forced (and thus cheap) labor. Many would-be beneficiaries of land reform undoubtedly would prefer to gain access to relatively small areas of land on a household basis, but more often than not they have found themselves owning large farms as part of a sizable collective. In many cases, such groups have attempted to operate farms on a collective basis (i.e. as a single farming operation), while in others they have implemented a degree of informal subdivision, particularly for cultivated lands. Shared grazing may also be used by owners of individual herds, but such individualization of production does not usually receive the support of state agencies such as the national Department of Rural Development and Land Reform or provincial departments of agriculture. Under LRAD, there was a move toward smaller groups, including extended family groups, because of the increased availability of finance in the forms of grants and credit (van den Brink et al., 2007). In addition, removing the income ceiling for grants has facilitated entrance into the redistribution program of black business-people 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.

The prevalence of group 'projects' has been driven by a combination of the small size of the available grant relative to the cost of the typical agricultural holding, which has forced beneficiaries to pool their grants, and a virtual ban on the subdivision of large-scale commercial farms. Official opposition to subdivision of farms has deep roots in South African history, and it has been a persistent feature of land reform since 1994.¹⁰ The failure to subdivide is arguably the single greatest contributor to the failure and general underperformance of land reform projects,

¹⁰ For example, labour tenants (that is, 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.

because it not only foists inappropriate sizes of farms on people (and absorbs too much of their grants in the process, leaving little over for production), but also forces them to work in groups, whether they want to do so or not.¹¹ The World Bank long has argued for subdivision, but its position has been opposed consistently by most of the South African agricultural “establishment”.

It is difficult to explain this failure to contemplate subdivision, and the topic rarely has been debated, but a number of factors may be contributing to this phenomenon. Group acquisition has not been openly questioned by organizations representing the landless, perhaps in the belief that beneficiaries will feel 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 units or into benefits for members¹²; and many groups collapse into individual production, usually at a very low level of output and with little tenure security for such individuals. The collective (“community”) basis of many restitution claims, and the requirement that people organize themselves into groups to access grants under the redistribution program, has also contributed to the prevalence of collective landholding and the 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 to be given (or insisted upon getting) greater freedom of choice.

The most immediate explanation for the lack of subdivision remains the requirement imposed by officials of the DRDLR, provincial departments of agriculture, and the regional land claims commissioners, 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 requirement, the state is supported by the vast majority of agricultural economists and commercial farmers in the country who clearly are hostile to a radical restructuring of the existing commercial agricultural sector based on large farms. If, however, the state had a policy of systematically breaking up large farms into smaller units suitable for emerging farmers -- whether organized as households or in small groups -- a very different outcome may be possible.

Retaining former commercial farms as undivided properties, however, is only one aspect of the farm model being imposed as part of the South African land reform. 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 demand starts with the “business plan” typically drawn up by consultants or officials of the Department of Agriculture who have been exposed only to large-scale commercial farming and, relate almost entirely to the physical properties of the land and hardly at all to the socioeconomic characteristics or even expressed wishes of the new owner-occupiers. Production for the market is usually the only objective; and plans typically require substantial loans from commercial banks, purchases of heavy equipment, selection of crop varieties and livestock breeds previously unknown to the

¹¹ 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 make the acquisition process itself much quicker and the land reform program more attractive to more people. Thus, the failure to subdivide contributes not only to post-acquisition failures of production, but also to the slow pace of land transfer.

¹² International experiences, particularly those from former Soviet Union and China, clearly demonstrated that “forced collective production” caused serious efficiency loss and would not be sustainable. China’s successful economic development in the past three decades started with dismantling people’s commune (which organized collective production at the village level, usually called as production teams) and introducing household based production system.

beneficiaries, hiring of labor (despite typically high rates of unemployment among members themselves), and often the appointment of a full-time farm manager. Not surprisingly, much of that typically fails to materialize.

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 -- in other words, the beneficiaries must adapt to the needs of the ideological paradigm of “big commercial farms”, and not the other way around. Alternative models, based on low material inputs, high labor inputs, and smaller units or even household-based of production, are actively discouraged. The failure to provide land reform beneficiaries with appropriately sized farms, and the resulting tensions within many beneficiary groups, are undoubtedly a major contributor to the high failure rate of land reform projects.

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. Whereas large commercial farmers generally have managed to overcome this service decline through their access to a range of commercial and cooperative services, land reform beneficiaries and other small-scale farmers largely are left to fend for themselves (Vink and Kirsten, 2003). Numerous studies -- supported by statements from senior policy makers -- reveal that land reform beneficiaries experience numerous problems accessing services, such as credit, training, technology extension, transport, plowing services, veterinary services, and marketing services (HSRC, 2003; Hall, 2004b; Wegerif, 2004; and Bradstock, 2005).

Services that are available to land reform beneficiaries tend to be supplied by provincial departments of agriculture and a small number of NGOs, but the evidence suggests that these reach only a minority of projects. In a study of LRAD projects in three provinces, for example, the Human Sciences Research Council reports that “...in many cases there is still no institutionalized alternative to laying the whole burden of training, mentoring and general capacitation on the provincial agricultural departments” (HSRC, 2003). In a study of nine LRAD projects in the Eastern Cape Province, Hall (2004b) finds no one had obtained any support from the private sector and most had not had any contact with the DLA since obtaining their land; two had received infrastructure grants from the Department of Agriculture, but none was receiving any form of extension service. In November 2005, the minister for agriculture and land affairs told parliament that 70 percent of land reform projects in Limpopo Province were dysfunctional, a situation she attributed to poor design, negative dynamics within groups, and a lack of post-settlement support (*Farmers Weekly*, 2005). In 2010/11, 411 farms were reported to have been provided with ‘functional agricultural infrastructure’ under the Recapitalization and Development Program, a tiny proportion of the number acquired since 1994 (DRDLR, 2011).

For Jacobs (2003), the general failure of post-settlement support stems from a failure to conceptualize land reform beyond the land transfer stage, and from poor communication between

the national DLA (responsible for land reform) and the nine provincial departments of agriculture (responsible for state services to farmers): “[T]he 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....”.

This lack of coordination between the key departments of agriculture and of land affairs is compounded by poor communication with other institutions (such as the Department of Housing and the Department of Water Affairs and Forestry) and local government structures (Hall et al., 2004). The need for additional support for land reform beneficiaries was acknowledged by the Ministry of Agriculture and Land Affairs and that acknowledgment led to the introduction in the fiscal 2004/05 national budget of both the Comprehensive Agricultural Support Program (CASP) -- a grant targeted to existing black farmers and the beneficiaries of land reform, largely intended for the development of infrastructure, with a total of R750 million allocated over five years -- and the Micro-Agricultural Finance Schemes of South Africa, intended to provide small loans to farmers (Hall and Lahiff, 2004). The limited evidence available, however, would suggest that these measures are not reaching their intended targets or impacting significantly the generally low levels of production that persist across the majority of all land reform projects. In June 2011, the Minister of Agriculture announced that the Department of Agriculture planned to establish 50,000 commercial farmers within the former homelands and would be making funding available under various headings to support small farmers: R1 billion for CASP, R400 million for Illima/Letsema and R57.7 million for the LandCare program of natural resource conservation.¹³

The well-developed (private) agribusiness 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 from the established commercial farmers has not been supported by recent experience. The principal explanation for that, of course, is that cash-strapped land reform beneficiaries generally are not in a position to exert any effective demand for the services on offer, even if those services were geared to their specific needs.

The widely reported problems faced by newly resettled farmers -- which can be attributed to shortages of finance, possibly of skills and certainly of appropriate support services -- has let the state agencies to adopt some innovative approaches, particularly in the context of PLAS. Under PLAS, beneficiaries are expected to prove their farming capacity during the initial period of leasehold, after which they be granted ownership of the land at the discretion of state official and dependent on access to redistribution grants and other finance. Concerns have been raised, however, that denial of land title during the initial settlement phase, and uncertainty about long-term ownership, are making it even more difficult resettled farmers to access finance, not least from the state-owned Land Bank. Moreover, the requirement that new farmers demonstrate profitability within a three (or five) year period is widely seen as unrealistic for an agricultural

¹³ “Government to establish 50,000 smallholder farmers”. BuaNews online, www.buanews.gov.za/news/11/11061515451001 .

start-up. As a result, serious doubts persist that the conditions imposed under PLAS will actually deliver more sustainable and productive land use.

Up to about 2007, redistributed land was generally transferred directly to the grant-approved beneficiaries, in freehold title. This was seen by some policy makers and others as problematic in cases where beneficiaries were unable or unwilling to make productive use of the land, whether due to shortages of capital or skills, tensions within beneficiary groups or -- most commonly -- a lack of the promised support from government agencies. The introduction of PLAS -- under which land title was held by the state -- has effectively changed beneficiaries from land owners to tenants, allowing the state to impose more stringent requirements in terms of how land is used and, where desired, to dispossess beneficiaries and allocate the land to others. This so-called ‘use it or lose it’ policy was announced by the then Minister Xingwana in March 2009 and led to the high-profile eviction of a women farmer in Gauteng province, an action later challenged in the courts. The ‘use it or lose it’ policy was subsequently reiterated by Minister Nkwinti who advocated the rehabilitation of failing redistribution projects -- which he estimated at 90% -- through the program of Recapitalization and Development and the involvement of strategic partners¹⁴. This approach has particular implications for those receiving land leases under PLAS, and it remains to be seen how effective it might be in cases where occupiers hold freehold title.

6. The Way Forward and Most Recent Institutional and Policy Development

This section addresses some of the key challenges that need to be addressed in order to deliver substantial area of land to landless people in a sustainable manner, and briefly reviews some recent institutional and policy developments.

Agrarian Restructuring

As outlined above, the pace of redistributing land from white to black ownership has been painfully slow, and appears to have actually slowed down in recent years¹⁵; major concerns have been expressed at all levels about the quality of land involved and the prices being paid.

While many of these problems can be traced back to specific policy design weaknesses, or poor implementation, the prolonged under-performance of the land reform program suggest a more fundamental dilemma -- starting with the lack of a comprehensive vision of the kind of agrarian restructuring that is desired, the means by which it is to be carried out and the intended beneficiaries. The Comprehensive Rural Development Program (CRDP) launched by President Zuma in 2009 appears to address a wide range of issues across the agrarian economy but the

¹⁴ Government Communication and Information System online, 05 Mar 2009, “Government to confiscate farms left undeveloped by beneficiaries”, <http://www.buanews.gov.za/news/09/09030510451003>; “Minister takes land back from new black owner”, *Business Day*, 09 April, 2009. “90% Of Redistributed Farms Not Functional – Nkwinti”. Sapa, 03 MARCH 2010. http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page72308?oid=163515&sn=Marketingweb_detail

¹⁵ In 2007-08, only 432,226 ha was redistributed under ‘Land Reform’ against an official target of 2.5 million ha (DLA, 2008); the following year, a similar figure of 443,600 hectares was redistributed against a target for the year of 1,500,00 ha (DRDLR, 2009); in 2009-10, 239,990 ha. was transferred/acquired out of a target of 656,000 (DRDLR, 2010); in 2010-11, the target was greatly reduced to 283,592 ha, which on this occasion was exceed by 14% (DRDLR, 2011).

program is still at pilot stage and currently focuses on the former homeland areas. While reform here is an urgent priority, addressing the homelands in isolation from the much larger commercial farming areas -- where land reform is taking place -- can do little to further the overall restructuring of agrarian relations in South Africa. AgriBEE and other measures that address the advanced agri-business sector have created opportunities for some new black entrepreneurs and shareholders, but have brought little direct benefit to the beneficiaries -- or potential beneficiaries -- of land reform.

Land expropriation -- as provided for under the constitution -- continues to be alluded to by a range of actors, including senior policy makers and the ANC Youth League, but does not appear to be a serious possibility at this point.¹⁶ New policy initiatives such as PLAS continue to operate within the willing seller-willing buyer paradigm, to the distinct advantage of (largely white) landowners, and, to date, appear to have achieved little in terms of resolving the widely-recognized problems at the heart of South Africa's land reform program. Various challenges to the existing pattern of land holding continue to circulate within political debates, including restricting land ownership by foreigners, a land tax and land nationalization, but none of these appear likely to be implemented in the near future.¹⁷ Moreover, it is not clear how, if at all, such measures might contribute to a restructuring of landholding in favor of the poor and landless.

Overall, a comprehensive restructuring of landholding -- such as envisaged under the 30% target -- remains highly unlikely. Few if any measures exist that prioritize access to land for poor and marginalized groups: indeed, groups such as farm workers and labor tenants -- who would appear to many as ideal candidates for land reform -- have seen a steady deterioration in their land rights since 1994.

Institutional Reforms

The African National Congress (ANC) and the Government have increasingly recognized the importance and urgency of addressing rural development and land reform related challenges. Since 2009, the Government has adopted a two-pronged response to the challenges discussed in previous sections. First, it has implemented institutional reforms, most notably by establishing a new Department specifically responsible for rural development and land reform issues. The Department of Rural Development and Land Reform is tasked with developing and coordinating the relevant policy, legislative, institutional and programmatic activities of different government agencies active in the rural sector. Second, it has engaged in new strategy development, actively prioritizing rural development and land reform initiatives in all major economic development strategies, such as the Medium Term Strategic Framework (2010 - 2014), Outcome 7 of the Delivery Agreement between the President and Ministers, the New Growth Plan, and the newly released National Development Plan (Vision 2030). However, as the past record clearly

¹⁶ For example, in July 2011, the Minister for Rural Development and Land Reform was quoted in the press as saying that expropriation of land without compensation is a possibility in future ("Land must be given back fast", *City Press*, 10 July 2011.) <http://www.citypress.co.za/Politics/News/Land-must-be-given-back-fast-20110709>

¹⁷ In January 2011, President Zuma told the ANC that he was once again considering a ban on foreign ownership of land. S. Africa may restrict foreign land ownership. AFP, *S. Africa may restrict foreign land ownership*. Jan 8, 2011. <http://www.google.com/hostednews/afp/article/ALeqM5gm8n-OpWzZOhl-0qHsEHukwSTaLw?docId=CNG.a27b39ffaaac7cc869cca243268ca85.581>

demonstrated, sustained commitment to, unwavering implementation of, and strong capacity to mobilize resource for the relevant strategies are the weakest points of the Government's capacity.

The new DRDLR is implementing a Comprehensive Rural Development Program (CRDP). The strategic objective of the CRDP is to create vibrant and sustainable rural communities. This objective is expected to be achieved through a three-pronged strategy based on: a) a coordinated and integrated broad-based agrarian transformation; b) an accelerated rural development; and c) an improved land reform program. Agrarian transformation will focus on the establishment of rural business initiatives, agro-industries, co-operatives, cultural initiatives and vibrant local markets in rural settings, the empowerment of rural people and communities, and the revitalization of old, and revamping of new economic and social infrastructures in rural areas. Rural development is about enabling rural people, through a participatory approach, to take control of their destiny, thereby dealing effectively with rural poverty through the optimal use and management of natural resources. Land reform will focus on accelerating the pace of redistribution and land tenure reform and speeding up the settlement of outstanding land restitution claims, through reviewing the existing programs as well as associated legislation and policies.

Although it may be too early to reach a definite conclusion on the effectiveness of the institutional reforms, it appears that the reform has not generated much positive change up to date. Preliminary analysis suggested the following reasons for lack of the positive impact. *First*, the capacity of the Department is relatively weak and it will take a long time to strengthen it. As demonstrated internationally, successfully addressing rural development and land reform challenges sets a high requirement for the Department's capacity. It is argued that there are three major aspects on which the capacity should be strengthened, namely, a) the Department needs to develop an accurate, updated, and detailed understanding of the structure of South Africa's rural sector and the nature of its transformation; b) there is an urgent need to develop a more focused and action-oriented mindset; and c) there is a need to establish a well-functioning monitoring and evaluation (M&E) system. *Second*, the Department still needs to find an effective operational model to enable it plays two different functions well in parallel. In terms of rural development, the Department will mainly play a "horizontal coordinating" role, given the wide spectrum of the rural development issues; in terms of land reform, the Department will mainly play "vertical implementation role". It requires different operational models and management skills. *Third*, the budget allocation appears not to match the importance and significance of the rural development and land reform program. As indicated by senior officials of the Department, the Department had requested a budget of R18.3 billion over a three year period. National Treasury had only allocated a budget of R6.3 billion over this period. The Department had then requested an additional amount of R4.4 billion which was largely for restitution, but was only given R0.29 billion, and majority of it was used for establishing the new Department after it was assigned mandate for rural development. In short, the Department does not have adequate funds to achieve its all objectives. On the other hand, given the current macro-economic situation as well as less than satisfactory performance of the Department's programs, it is reasonable for the National Treasury to ask the DRDLR to demonstrate convincing evidence of progress before it can approve its additional budget request.

Green Paper on Land Reform

The DRDLR released its draft Green Paper on Land Reform in early September 2011 and the public consultation process continued until January 2012. This section summarizes some comments from a review conducted by a group of international experts convened by the World Bank. The consensus is that the draft Green Paper could be significantly strengthened in order to serve as an adequate basis for improving South Africa's land reform programs.

Some experts (e.g., Chris Tanner of FAO) pointed out that it is encouraging to see that the Green Paper asserts that land reform must be located within the CRDP. Land management and administration cannot be implemented in isolation from wider rural (and urban) development strategies, which of course include a range of other governance and socio-economic investment elements in them.

Many experts (e.g., John Bruce and Hans Binswanger of the World Bank) are of the view that the Green Paper appears more interested in creating a land bureaucracy than getting agrarian reform done. More justification is needed to support the proposed institutional changes. It is believed that the DRDLR could have benefited more from the very considerable amount of serious thinking done in South Africa in recently years about how to improve land polices. In addition, a clear identification and careful examination of major existing problems should be added to the Green Paper (Hans Binswanger and Kay Leresche of the World Bank).

Many argued that the powers given to the Land Management Commission (LMC) are worrisome, particularly the power of "verifying and /or validating / invalidating individual or corporate title deeds", and "seizing or confiscating land gotten through fraudulent or corrupt means" (e.g., John Bruce, Gavin Adlington, and Tony Lamb of the World Bank). These provisions could raise serious rule of law/constitutional issues. Similarly, the powers given to the Land Rights Management Board (LRMB) are of concern, particularly the powers of dissolving Land Rights Management Committees (LRMCs) and overturning decisions of the LRMCs. It is clear that the LRMCs are not intended to function with any degree of autonomy, but are simply to be extensions of LRMB power. This appears to be inconsistent with the existing knowledge about what works well in local land institutions.

Most experts believed that the review of land reform experience elsewhere could be improved considerably. For example, the description of China's recent reforms and Mexico's constitutional reform can be better presented. They also advised the Department to look at experiences in Namibia, Mozambique, and Malawi, given these countries can provide closer and more relevant examples. In addition, it is believed that discussions on the experiences from other countries should have highlighted those aspects of direct relevance to what the Green Paper proposes.

Some experts (e.g., Hans Binswanger and Kay Leresche of the World Bank) pointed out that the Green Paper is basically silent on the following important topics: (a) the role and modalities of expropriation, as requested by the 2005 land summit; (b) a land tax (also requested by the land summit and on which the department has conducted an extensive consultation process, with support of the World Bank via including a major land tax paper); (c) the farming models to be

pursued (collective, large scale, or small and individual enterprise); (d) the all important non-land components of land reform; (e) beneficiary identification and selection; (f) implementation options and modalities, such as stakeholder-driven land reform; and (g) implementation capacity and how to strengthen it. Successful land reform and agrarian transformation in South Africa depend on effectively addressing all these topics.

7. Lessons Learned and Conclusions

Based on the above discussions, the major lessons offered by the implementation of South Africa's land reform program in the past 18 years can be summarized as the following:

- *Market-based reform alone does not work:* Market-based transactions present valuable opportunities for land redistribution in the South African context, whether between private sellers/buyers or via the state. However, the WSWB approach, applied since 1994, has clearly not worked as envisaged by its proponents. While efforts have been made to rebrand the WSWB approach through programmes such as PLAS, the fundamentals remain largely unchanged, pointing to the need for more radical change in key areas. Market purchases from 'willing sellers' must be supported by genuinely pro-active interventions by the state to acquire appropriate land for clearly identified beneficiaries at affordable prices. Selective expropriation and systematic subdivision of large farms would be central to this approach;
- *Need for appropriate legislation and rigorous application:* Section 25 of the South African Constitution provides the basis for a potentially far-reaching land reform programme, but is short on specifics. More details on the rights and obligations of various parties – including the state, property owners and potential beneficiaries – and the methods to be used need to be set out in additional legislation, but this has largely not happened to date. The key lesson here is that the fundamentals of a programme of land reform must be clearly set out in legislation – with amendments as circumstances change – and vigorously applied. Such legislation, and the political debates surrounding it, will help clarify the roles – and legitimate expectations - of state agencies and private citizens alike, and create the basis for a more integrated, and participatory, programme of land reform;
- *Less of a focus on land acquisition and ownership, and more on land use:* Huge attention has been given over the past 18 years to the formal aspects of property rights, while land use has been widely ignored or treated in a formulaic manner. An alternative approach would involve a more pragmatic approach to land acquisition, through significantly strengthening communities' participation. On the beneficiary side, this would involve building on existing farming practices and responding to clearly identified needs, provision of appropriately-sized holding (based on subdivision of large farms) and greater flexibility around land use (e.g. accommodating both 'commercial' and 'subsistence' farming, and stages in between). Beneficiaries should have the option to acquire land on a lease-hold basis; where possible, group land-holding or collective farming should be avoided;

- *Capacity strengthening to the bureaucracy:* A key lesson of South Africa's experience with land reform is that capacity of the state agencies involved – the national Department of Rural Development and Land Reform (formally the Department of Land Affairs) and its branch the Commission on Restitution of Land Rights, and the provincial departments of agriculture, has not been equal to the task. Three main areas of activity can be identified that require attention: land acquisition and transfer; farm planning and beneficiary approval; and post-settlement support. The existing range of state support services – based on the agricultural departments of the pre-1994 provinces and homelands – continue to perform extremely poorly and urgently need to be restructured and reoriented to offer effective support to small-scale and emerging farmers;
- *Give a greater role to civil society:* Civil society organisations, and intended beneficiaries themselves, have been marginalised throughout the period of land reform. After the initial lodgement of land claims or applications for redistribution grants, the processes of land acquisition, farm planning and project implementation have been dominated by state agencies – and their hired consultants – often with poor outcomes in terms of land utilisation and livelihood improvements. More flexible, less formal, systems are required that would allow would-be beneficiaries and supportive organisations such as trade unions and rural NGOs a greater role in the selection of both land and beneficiaries, in the negotiation of land prices, and in project design. Mobilisation of civil society in support of land reform would provide a more accurate indication of the level of demand for land (which may be quite limited) and increase the political pressure on landowners and state agencies to deliver more appropriate and sustainable land reform projects; and
- *Post-settlement support is key to long-term success:* Post-settlement support is perhaps the weakest aspect of the South African land reform programme to date. As indicated above, the institutional arrangements for the delivery of support services to resettled farmers are largely dysfunctional and the services provided have been neither adequate nor appropriate. Anecdotal evidence suggests that where new farmers are successfully established, it often depends on personal relationships between resettled farmers and local agricultural officials offering an old-fashioned extension service, involving frequent farm visits, establishment of relationships of trust, and advice that is appropriate to the level of skills and resources of the farmers concerned. This contrasts with the elaborate – and costly - 'farm plans' imposed by state agencies on many resettled farmers, which typically collapse after a short time, leading to a breakdown of relationships and abandonment of the project by the agencies. Extension agents should work with farmers to develop affordable and sustainable land use. Production credit, which along with advice services is the most pressing need of most land reform beneficiaries, should be provided by a specialist agency under terms that are appropriate to small-scale and emerging farmers.

Land reform is an important aspect of social and economic transformation in South Africa, as a means both of redressing past injustice and of alleviating the pressing problems of poverty and inequality in the rural areas. The South African land reform program is founded on the country's

constitution and has the potential for far-reaching change through restitution, tenure reform, and redistribution. The government policies and associated implementation, however, have not generated expected results and have fallen far short of their delivery targets. Even where land has been transferred, it appears to have had minimal impact on the livelihoods of beneficiaries, largely because of inappropriate project design, a lack of necessary support services and shortages of working capital, leading to widespread underutilization of land. There is no evidence to suggest that land reform has led to improvements in agricultural efficiency, income, employment or economic growth.

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

The evidence of the last 18 years suggest that the current approach -- based on acquisition of land through the open market, minimal support to new farmers, and bureaucratic imposition of production models loosely based on existing commercial operators -- is unlikely to transform the rural economy and lift people out of poverty. What clearly is missing at present is any small-farmer path to development that could enable 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. Without doubt, making this happen would require radical restructuring of existing farm units to create family-size farms, and 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.

Effectiveness of recent institutional reforms and policy proposals -- which focus mainly on wider process of rural development, the process of land acquisition, and possible further institutional changes in land administration system -- remains to be carefully examined. A key aspect which is clearly missing from the governance tradition is the sustained focus on implementation, resource mobilization, and timely policy adjustment. 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.

References

- Ahmed, A., Peter Jacobs, Ruth Hall, W. Kapery, R. Omar, R., and M. Schwartz. 2003. "Monitoring and Evaluating the Quality of Life of Land Reform Beneficiaries: 2000/2001." Technical report prepared for the Department of Land Affairs, Directorate of Monitoring and Evaluation, Pretoria.
- African National Congress. 1994. *The Reconstruction and Development Programme: A Policy Framework*. Johannesburg, South Africa: Umanyano.
- Bradstock, Alastair. 2005. *Key Experiences of Land Reform in the Northern Cape Province of South Africa*. London: FARM-Africa.
- Claassens, Aninka and Ben Cousins (eds). 2008. *Land, Power and Custom: Controversies Generated by South Africa's Communal Land Rights Act*. UCT Press: Cape Town and Ohio University Press: Athens OH.
- Cousins, Ben. 2007. "More Than Socially Embedded: The Distinctive Character of 'Communal Tenure' Regimes in South Africa and its Implications for Land Policy". *Journal of Agrarian Change*, 7(3), 2007, pp 281–315.
- Cousins, Ben and Hall, Ruth. 2011. *Rights without Illusions: The Potential and Limits of Rights-Based Approaches to Securing Land Tenure in Rural South Africa*. Working Paper 18. PLAAS, University of the Western Cape, Cape Town, South Africa.
- Department of Agriculture. 2007. *Abstract of Agricultural Statistics 2007*. http://www.nda.agric.za/docs/Abstract_07.pdf [accessed December 30, 2008].
- Department of Land Affairs. 1997. "White Paper on South African Land Policy." Pretoria.
- . 2004. "The A-Z of the Communal Land Rights Act, 2004 (Act No. 11 of 2004)." Pretoria. <http://land.pwv.gov.za/tenurereform/>.
- . 2005. "Delivery of Land and Agrarian Reform." Report to the National Land Summit, Johannesburg, July 27–31.
- . 2007. *Annual Report 2006/07*. Pretoria.
- . 2008. *Annual Report 2007/08*. Pretoria.
- Department of Rural Development and Land Reform 2009. *Annual Report 2008/09*. Pretoria.
- . 2010. *Annual Report 2009/10*. Pretoria.
- . 2011. *Annual Report 2010/11*. Pretoria

Derman, Bill, Edward Lahiff, and Espen Sjaastad. 2006. "Strategic Questions about Strategic Partners: Challenges and Pitfalls in South Africa's New Model of Land Restitution." Paper presented to the Land, Memory, Reconstruction and Justice Conference, Cape Town, South Africa, September 13–15.

Farmers Weekly. 2005. "Didiza Offers Reasons for Limpopo Failures." November 18.

Hall, Ruth. 2003. "Farm Tenure." Evaluating Land and Agrarian Reform in South Africa Series, Report 3. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

---. 2004a. "Land and Agrarian Reform in South Africa: A Status Report 2004." Research Report 20. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

---. 2004b. "LRAD Rapid Systematic Assessment Survey: Nine Case Studies in the Eastern Cape." Unpublished manuscript. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Hall, Ruth, Moenieba Isaacs, and Munyaradzi Saruchera. 2004. "Land and Agrarian Reform in Integrated Development Plans: Case Studies from Selected District and Local Municipalities." Unpublished manuscript. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa

Hall, Ruth, Peter Jacobs, and Edward Lahiff. 2003. "Final Report." Evaluating Land and Agrarian Reform in South Africa Series, Report 10. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Hall, Ruth, and Edward Lahiff. 2004. "Budgeting for Land Reform." Policy Brief 13. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

HSRC (Human Sciences Research Council). 2003. "Land Redistribution for Agricultural Development: Case Studies in Three Provinces." Unpublished manuscript. Integrated Rural and Regional Development Division, Pretoria, South Africa.

Human Rights Watch. 2011. *Ripe with Abuse: Human Rights Conditions in South Africa's Fruit and Wine Industries*. Human Rights Watch, New York. <http://www.hrw.org/sites/default/files/reports/safarm0811webwcover.pdf>

Jacobs, Peter. 2003. "Support for Agricultural Development." Evaluating Land and Agrarian Reform in South Africa Series, Report 4. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Kleinbooi, Karin, Edward Lahiff, and Tom Boyce. 2006. "Land Reform, Farm Employment and Livelihoods. Western Cape Case Study: Theewaterskloof Local Municipality." Programme for

Land and Agrarian Studies, University of the Western Cape, Cape Town South Africa, and Human Sciences Research Council, Pretoria, South Africa.

Lahiff, Edward. 2007. "State, Market or the Worst of Both? Experimenting with Market-Based Land Reform in South Africa." Occasional Paper 30. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Lahiff, Edward, Davis, Nerhene and Manenzhe, Tshililo. 2012. *Joint ventures in agriculture: Lessons from land reform projects in South Africa*. IIED/IFAD/FAO/PLAAS, London/Rome/Cape Town.

Lyne, Michael C. and M.A.G. Darroch. 2003. "Land Redistribution in South Africa: Past Performance and Future Policy." BASIS CRSP Research Paper. Department of Agricultural and Applied Economics, University of Wisconsin-Madison.

May, Julian, and Benjamin Roberts. 2000. "Monitoring and Evaluating the Quality of Life of Land Reform Beneficiaries: 1998/1999. Summary Report prepared for the Department of Land Affairs." Department of Land Affairs, Pretoria, South Africa.

Mayson, David. 2003. "Joint Ventures." Evaluating Land and Agrarian Reform in South Africa Series, Report 7. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Ntsebeza, Lungisile. 2006. *Democracy Compromised: Chiefs and the Politics of the Land in South Africa*. Cape Town, South Africa: HSRC Press.

---. 2007. "Land Redistribution in South Africa: The Property Clause Revisited." In *The Land Question in South Africa: The Challenge of Transformation and Redistribution*, ed. Lungisile Ntsebeza and Ruth Hall, 107-131. Cape Town, South Africa: HSRC Press.

OECD (Organisation for Economic Co-operation and Development). 2006. *OECD Review of Agricultural Policies: South Africa*. Paris.

Statistics South Africa. 1996. *The People of South Africa: Population Census, 1996. Census in Brief*. Pretoria, South Africa: Statistics South Africa.

Tilley, S. 2004. "Why Do the Landless Remain Landless? An Examination of Land Acquisition and the Extent to Which the Land Market and Land Redistribution Mechanisms Serve the Needs of Land-Seeking People." Research Report. Surplus People Project, Cape Town, South Africa.

van den Brink, Rogier, Glen S. Thomas, and Hans Binswanger. 2007, "Agricultural Land Redistribution in South Africa: Towards Accelerated Implementation." In *The Land Question in South Africa: The Challenge of Transformation and Redistribution*, ed. Lungisile Ntsebeza and Ruth Hall, 152-201. Cape Town, South Africa: HSRC Press.

Vink, Nick, and Johann Kirsten. 2003. "Agriculture in the National Economy." In *The Challenge of Change: Agriculture, Land and the South African Economy*, ed. Lieb Nieuwoudt and Jan Groenewald, 3-20. Scottsville, South Africa: University of Natal Press.

Walker, Cheryl. 2003. "Piety in the Sky? Gender Policy and Land Reform in South Africa." *Journal of Agrarian Change* 3 (1-2): 111-48.

Wegerif, Marc. 2004. "A Critical Appraisal of South Africa's Market-Based Land Reform Policy: The Case of the Land Redistribution for Agricultural Development (LRAD) Program in Limpopo." Research Report 19. Programme for Land and Agrarian Studies, University of the Western Cape, Cape Town, South Africa.

Wegerif, Marc, Bev Russell, and Irma Grundling,. 2005. *Summary of Key Findings from the National Evictions Survey*. Polokwane, South Africa: Nkuzi Development Association.

Williams, Gavin. 1996. "Setting the Agenda: A Critique of the World Bank's Rural Restructuring Programme for South Africa." *Journal of Southern African Studies* 22 (1): 139-67.

World Bank. 1994. "South African Agriculture: Structure, Performance and Options for the Future." Working Paper 12950. Washington DC.

---. 2008. *World Development Report: Agriculture for Development*, Washington DC.