

# The Land Question in South Africa

The Challenge of  
Transformation  
and Redistribution

Edited by Lungisile Ntsebeza and Ruth Hall



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## *Foreword*

The Harold Wolpe Memorial Trust, established in 1996, acknowledges the contribution Harold Wolpe made both intellectually and politically to South Africa. The Trust's fundamental aim is to foster critical debate, discussion and research on social, economic and cultural issues, following Wolpe's scrupulous analytical skills.

As one of its diverse activities, the Trust hosted a conference in 1994 on 'The land question in South Africa', acknowledging that this is one of the critical challenges South Africa faces today. There is general consensus about the need for large-scale redistribution of land to redress centuries of dispossession. At the same time such a move should contribute to the transformation of the economy and the reduction of poverty.

The resolution of this process is highly complex. There are a number of conflicting and contradictory tensions. So, how can land tenure be solved whilst at the same time dealing with the conflicting interests of farm dwellers, communal land residents, traditional interests, large-scale farming, and so on? There are quite distinct views on how best this can be done, and the conference sought to bring these different views together.

Approximately 70 people attended including government, non-governmental organisations, social movements, commercial farmers and academics. A number of commissioned papers set the scene for intensive discussion and debate on the key issues, representing a wide range of views and analyses. The international speakers provided insights on land reform in other countries.

Specifically the conference set out to determine what the goals of land reform are; whether it is possible to determine who the main beneficiaries should be; what the most appropriate mechanisms to acquire and redistribute land are; whether a rights-based land restitution programme can play a meaningful role in changing patterns of land ownership; what the nature of post-settlement support services and training needs is, as well as determining whose responsibility it is. All these are part of the structure of the agrarian political economy which could reduce structural poverty and inequality.

The Trust welcomes the publication of this book based on a selection of contributions made at the conference. The book represents the first comprehensive overview of land reform issues and challenges in South Africa. We are pleased that we were able to host such an event. We, of course, recognise the volatility of the circumstances surrounding land reform. Nevertheless, the book provides a solid basis for a critical understanding of the spectrum of issues from a range of perspectives. Our thanks go to the editors, the participants in the conference, and the Human Sciences Research Council for its support and assistance in realising the project of the book.

Dr AnnMarie Wolpe

Trustee  
The Harold Wolpe Memorial Trust

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## *Abbreviations and acronyms*

ALARM	Alliance of Land and Agrarian Reform Movements
ANC	African National Congress
CLRA	Communal Land Rights Act
CRLR	Commission on Restitution of Land Rights
DLA	Department of Land Affairs
FTLRP	Fast Track Land Reform Programme
GEAR	Growth, Employment and Redistribution
GoZ	Government of Zimbabwe
LPM	Landless People's Movement
LRAD	Land Redistribution for Agricultural Development
MST	<i>Movimento dos Trabalhadores Rurais Sem Terra</i> (Brazilian Landless Workers' Movement)
NGO	non-governmental organisation
NLC	National Land Committee
NP	National Party
PAC	Pan Africanist Congress
PLAAS	Programme for Land and Agrarian Studies
RDP	Reconstruction and Development Programme
SACP	South African Communist Party
SLAG	Settlement and Land Acquisition Grant
SPP	Surplus People Project
TCOE	Trust for Community Outreach and Education



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# 1 *Introduction*

Ruth Hall and Lungisile Ntsebeza

## *Background*

From 25 to 27 March 2004, the Harold Wolpe Memorial Trust (HWMT) hosted a conference entitled ‘The Land Question in South Africa: The Challenge of Transformation and Redistribution’ at the Victoria and Alfred Waterfront in Cape Town.

The HWMT was established in 1996 shortly after Harold Wolpe’s untimely death and, as a tribute to his life and work, is committed to fostering public debate on political transformation between government, civil society, intellectuals and scholars. The HWMT believes that ‘such initiatives would be congruent with Harold Wolpe’s lifelong passion for and commitment to a radical politics based on critical scholarship that is as rigorous as it is engaged’.<sup>1</sup>

The conference on the land question brought together stakeholders in the land sector including representatives from the departments of Agriculture and Land Affairs, rural social movements, non-governmental organisations (NGOs), farmers, academics and researchers, to debate what the organisers considered to be the core issue at the heart of the land question in South Africa: how can a large-scale redistribution of land provide redress for centuries of dispossession while contributing to the transformation of the economy and the reduction of poverty, both rural and urban? There have been, in recent years, relatively few fora within which the key stakeholders in the land sector could engage constructively with one another on questions such as these. This conference aimed to provide such a forum and to promote dialogue on these burning questions.

A number of commissioned papers set the scene for intensive discussion and debate on the key issues, and a wide range of views was represented. These included contributions from international speakers who provided insights on land reform in other countries, government representatives, and South

African scholars and researchers. Working groups, which were set up after the presentations, developed positions on the key questions, and presented them for debate in plenary sessions. Key questions addressed at the conference included:

- What are the goals of land reform in South Africa (historical redress, black economic empowerment, poverty reduction)?
- Who should be its primary beneficiaries (the rural poor, women, farm dwellers, emerging rural entrepreneurs, a new class of African commercial farmers)?
- What are the appropriate mechanisms to acquire and redistribute land ('willing seller, willing buyer' transactions, land taxes, limits on land holdings, state purchase and resettlement, expropriation)?
- What role can a rights-based land restitution programme play in changing patterns of land ownership?
- What kinds of post-settlement support services do land reform beneficiaries require, and who will provide them?
- What wider transformations of the structure of the agrarian political economy are required to reduce structural poverty and inequality, and what policies can promote such transformations?

From these questions, it seems clear that the focus of the conference was on assessing the South African land reform programme. In many ways, and with the benefit of hindsight, this conference proved to be one of the many initiatives which sought to review the performance of the African National Congress (ANC)-led government in the first ten years of South Africa's democracy.

### *The land question in South Africa*

Ten years of democracy in South Africa have seen some impressive achievements in addressing the debilitating legacy of apartheid. Economic growth has occurred, inflation has been kept under control, and the provision of infrastructure and social services (e.g. houses, water, electricity and medical services) to ordinary citizens has dramatically improved. However, despite these achievements, there is compelling evidence that structural poverty, a key apartheid legacy, is deepening. Unemployment has risen rapidly over the past decade and over half of all South Africans live in poverty.

With regard to land, it is undeniable, as is clear from the various chapters in this book, that the pace of delivery has been painfully slow. This is disturbing given that one of the key challenges facing the post-1994 South African state is how to reverse the racial inequalities in land resulting from colonial conquest and the violent dispossession of indigenous people of their land. This is undoubtedly a key issue in our understanding of the land question in South Africa.

Historically, white settlers in South Africa appropriated more than 90 per cent of the land surface under the 1913 Natives Land Act, confining the indigenous people to reserves in the remaining marginal portions of land. This process forced a large number of rural residents to leave the rural areas for urban areas and farms in search of work. A significant number of rural people became fully proletarianised, while others became migrant workers with a tenuous link to land. It is important to note, though, that this process of proletarianisation should not be viewed in linear and teleological terms. Whenever colonialists got the upper hand, they introduced commodity farming, challenging indigenous agricultural systems which were not geared for the market. However, prior to the discovery of minerals in the 1860s, Africans adapted quite remarkably to commodity farming. As Mafeje puts it, they were 'the most dynamic agricultural producers in South Africa' (1988: 100). Radical scholars of the 1970s and 1980s have documented this phenomenon, and the best known of these studies is Bundy's (1988) *The Rise and Fall of the South African Peasantry*. In the Cape, the colonial government and missionaries went further and attempted to establish a class of African farmers in their bid to marginalise chiefs who were associated with anti-colonial wars.

The discovery of minerals, particularly of gold in the 1880s, led, amongst other things, to a demand for cheap labour. The obvious target was African labour. The colonial strategy, even in the Cape, shifted from promoting a class of African farmers to compelling Africans to becoming wage labourers. The first legislative measure in this regard was the promulgation in the Cape Parliament under the premiership of Cecil John Rhodes of the notorious Glen Grey Act in 1894. After the Union of South Africa in 1910, some of the provisions of the Glen Grey Act were incorporated in the Natives Land Act of 1913. This Act forbade Africans to buy and own land outside the 7 per cent of the land that was reserved for their occupation. It also abolished the sharecropping system and labour tenancies. These developments, according to Bundy, by and large accounted for the fall of the peasantry in South Africa.

While colonialism and apartheid systematically undermined African agriculture, white farmers, through substantial state subsidies and the availability of cheap African labour, developed a model of large-scale commercial farming in South Africa. This has led some commentators to argue that there existed two forms of agriculture in South Africa: so-called subsistence farming in the communal areas and white commercial farming.

In recent times, President Mbeki has articulated a version of this dualism. According to him and some analysts, South Africa is a country with 'two economies': a developed core that is well connected to the international economy and a periphery of informal urban settlements and rural areas. The latter are characterised by weak local economies, low-wage casual and seasonal work, low-income self-employment, and hunger.

While the existence of a large-scale white-dominated commercial farming sector on the one hand and, on the other hand, a crumbling rural subsistence sector in the former bantustans cannot be denied, it is important to point out that the two systems cannot be viewed in isolation. In much the same way as Wolpe (1972) has argued that the development of mining capital in South Africa in particular was 'inextricably linked' with the reserves, the so-called subsistence and informal economy of President Mbeki's two economies cannot be understood outside the context of the formal economy and white-dominated commercial farming. White commercial farming in South Africa is what it is precisely because of the disintegration of the rural economy in the former bantustans and the cheap labour policy resulting from this. A view of these two sectors as separate, rather than causally linked, leads to a flawed understanding of how these 'dualisms' can be resolved. There is, therefore, only one land question and it is a complex one that encompasses the question of how land is accessed and used, how labour is reproduced and how capital is accumulated. In this sense, the land question cannot be resolved in isolation, but is intimately linked to the wider political economy.

A fundamental issue facing policy makers in contemporary South Africa is the role of land in poverty eradication or alleviation. This question becomes all the more pressing given the fact that, compared to the rest of the continent, South Africa is an industrialised country with a strong urban sector and an agricultural sector which contributes less than 5 per cent of the total economy (NDA 2004: 78). At the same time, in an era such as ours, which is dominated by the neo-liberal agenda, urban economies are increasingly failing to absorb

the growing labour force. The loss of jobs in the formal sector, alongside a rising influx of new entrants to the job market, contributes to growing poverty among large sections of society.

These considerations raise the following questions: is there a role for land in the struggle against poverty in South Africa, especially given the inability of the urban economy to create jobs? How do we characterise South Africans living in rural areas? Are they interested in making a livelihood out of land, or are jobs their main preoccupation? What would be an appropriate strategy and vision for the future of the former bantustans or former 'homelands'? Where should the state invest its energies and resources? More specifically, why should the South African state invest in transforming land relations?

These questions remain largely unaddressed, not only in the current land reform programme, but also by academics, researchers and activists. Some of the contributions in this book, too, assume that, given the fact that the economy under neo-liberalism is not creating jobs, land may assume a new significance in the struggle against poverty, urban and rural. There is an urgent need, however, for these assumptions to be examined and tested.

### *International and historical perspectives*

The contributions by Bernstein and Moyo in this book provide a useful framework within which South Africans can begin to think about land and agrarian questions. Bernstein locates the land question within a larger agrarian question which, he argues, must be periodised. During the rise and development of capitalism, he argues, the agrarian question was how to transform social relations of production in farming as well as enable agriculture to contribute to industrialisation. It was concerned with transitions to capitalism (and then to socialism). Bernstein labels this 'classic' agrarian question the 'agrarian question of capital'. He goes on to argue that the transition to capitalism has occurred on a global scale, and concludes that there is no longer an agrarian question of capital today. Where these transitions have not fully taken place, as in the peripheries (the South), the question in its original formulation is not relevant given the dominance of capitalism as a world phenomenon.

Rather, in the contemporary era of global neo-liberal capitalism, to the extent to which the agrarian question exists, it can, according to Bernstein

(in this book), be characterised as an 'agrarian question of labour'. Bernstein contends that, where contemporary capitalism fails to absorb the labour force by providing adequate and secure employment, particularly for those in the South, land redistribution may acquire a new significance. Hence his notion that the agrarian question today is one of labour. Bernstein suggests that demand for land could be one of numerous survival strategies that some but not all rural people in the South adopt in response to the crisis of the reproduction of labour. Land in this case would not make any significant contribution to industrialisation as conceived in the 'classic' formulation.

Whereas Bernstein's contribution focuses on land as part of the agrarian question, Moyo takes a broader view of the politics of land and agriculture in southern Africa. His departure point is that land remains a basic source of livelihood for the majority of people in the region, who depend on land in sectors such as agriculture, tourism, mining, housing and industry. Thus, according to him, the land question is not only an agrarian issue, but also a critical social question.

Moyo argues that the principal land question facing post-colonial and post-apartheid southern Africa is that little progress has been made in the implementation of large-scale land reform. Following the tradition of Samir Amin (1976) and Archie Mafeje (1988), he distinguishes between countries which were subjected to large-scale land dispossession and settler colonialism such as South Africa, Namibia, Zimbabwe and Mozambique, and those that went through limited settler colonialism such as Botswana, Lesotho and Swaziland. With respect to the former settler colonies which went through a negotiated political transition, such as Zimbabwe, Namibia and South Africa, the legacy of racially unequal land control was by and large maintained at independence in the form of constitutional guarantees such as the protection of existing property rights. Other countries in the region have also experienced large-scale land concentration and class differentiation and face the challenges of establishing legal and administrative systems to secure customary land rights and promoting effective land management. With regard to the agrarian question, Moyo argues that the 'peasant' question in southern Africa has long been subordinated to an agrarian modernisation project that is based on export-oriented capitalist agriculture. He criticises this agricultural model for marginalising the peasantry, though he does not define who constitutes the 'peasantry'.

While the regional perspective is important and, as Mamdani (1996) has warned, we should beware of the presumption of South Africa's exceptionalism, we should also resist pushing the pendulum to the other extreme, pretending that there are no fundamental differences between South Africa and other countries on the African continent. This is particularly the case when one takes a political economy perspective. South Africa is not primarily an agrarian society, and the extent of the dispossession of the land of indigenous people has been such that a large number of them were converted into wage workers. For this reason, there remains widespread disagreement about the demand for land in South Africa, and therefore also about the purpose and prospective beneficiaries of land reform.

### *The demand for land*

Little is known about the nature and extent of the demand for land in South Africa. The few sources of survey data on the demand for land have been heavily criticised and debated, and have relied on attitudinal surveys (Marcus, Eales & Wildschut 1996; CDE 2005; HSRC 2005). While the question of how many people want land for agricultural purposes has not been satisfactorily answered at a national level, there does seem to be evidence that, across parts of the country, there are people who are in need of land. The establishment of the Landless People's Movement (LPM) in 2001 and the People's Tribunal on Landlessness that was organised by the Trust for Community Outreach and Education (TCOE) in December 2003 provide some pertinent examples.

While unemployment may accentuate the demand for land, research in the Xhalinga magisterial district in the Eastern Cape suggests that, even within adverse circumstances, some people have opted for land-based livelihoods instead of jobs. There is evidence of a pattern of migrant workers choosing to return to the rural areas of the former bantustans to pursue land-based livelihoods, even within the limited resources available in these areas as a result of overcrowding and limited fields for cultivation and land for grazing. Research conducted in this magisterial district suggests that the demand for land is particularly acute among these livestock owners (Ncapayi 2005).

However, more research needs to be done on the nature of the demand for land in South Africa, particularly in the light of the issues and questions raised by Bernstein and Moyo. For example, is the demand for land in South Africa

a confirmation of Moyo's claim that there is a (perhaps latent) peasantry in South Africa, or might it be a confirmation of Bernstein's notion of an agrarian question of labour?

It is also clear that land is as much an urban issue as it is a rural one, and that there are multiple non-agricultural uses of land – for settlement (housing), for security, for natural resource harvesting – which tend to be underestimated. Further, while there may be a demand for land as an economic asset, ownership of land in South Africa also represents a source of identity and a symbol of citizenship. Land reform is therefore also a political imperative and continuing inequality in land ownership is a highly emotive and controversial issue. On the one hand, commercial farmers fear a Zimbabwe-style 'land grab'; on the other, landless people and their supporters are becoming increasingly frustrated with the slow pace of reform.

### *The South African land reform programme*

From 1994, the ANC-led Government of National Unity embarked on an ambitious land reform programme. In the early 1990s, after the unbanning of the ANC, there were high expectations among rural people that land would be returned to them and that the advent of democracy would mean that opportunities to own and use land would be opened up across the country (CLC 1994). The World Bank, advising the ANC as the government-in-waiting, proposed that 30 per cent of commercial farming land – in the former 'white' areas – could be transferred to 600 000 smallholders through a market-led programme of land redistribution. It estimated that this could be achieved relatively cheaply, at a cost of R21 billion, but would require substantially expanding the institutional capacity in the public sector to implement a programme on this scale (World Bank 1994: 219–223).

These proposals were extensively criticised at the time. One of the main criticisms was that the proposals relied on ideologically driven and untested models that ignored the reality of land markets, and would be prohibitively expensive (Williams 1994). Nevertheless, the policy was confirmed and the 30 per cent target adopted in 1994 in the ANC election manifesto, the Reconstruction and Development Programme, which anticipated that this could be achieved within the first five years of the programme.



*Slow pace of land reform*

As has already been indicated, and will be evident in the chapters that follow, the pace of land reform has been frustratingly slow. Delivery of land reform started with a pilot programme in 1995. By 1998, the programme had picked up pace, though the rate at which land was being transferred from white to African ownership was still a far cry from the targets of the government and the expectations of citizens. Five years into democracy, less than 1 per cent of agricultural land had been transferred through the programme and, at the end of the first decade, this figure had risen to 3.1 per cent. However, there are problems with measuring 'pace' only in terms of the number of hectares transferred. Contributions to this book, especially Cheryl Walker's, raise wider questions regarding the quality of livelihoods produced. She argues instead for attention to be paid to actual outcomes and, having weighed this, for a more cautious assessment of what can realistically be achieved. In this way, policy debate and planning can move beyond the vague 'wish lists' of who should benefit – the disadvantaged, the poor, aspirant commercial farmers, women, farm workers, the disabled and the youth – and towards real-world prioritisation.

Ruth Hall's chapter presents an overview of delivery against targets, outlining where redistribution has taken place and considering some of the factors impeding progress. Some of the reasons cited for slow progress include institutional weaknesses, as the short-staffed Department of Land Affairs (DLA) was being established and, having inherited apartheid-era civil servants, was undergoing its own transformation process; the limited budgets available; and the reactive approach to the programme, which relies on landowners offering property for sale. Lungisile Ntsebeza's chapter on the property clause in the Constitution argues that the protection of existing property rights is an impediment to meaningful land reform. While it does not prohibit expropriation, current interpretation requires market prices to be paid and this still renders land reform dependent on land markets.

*Agricultural reform and the land question*

A core challenge in resolving the land question is the dissonance between land and agricultural policy and the implications of these for land reform. While debate has tended to focus on how land can be acquired and transferred, in

truth this is only a starting point. For land reform to succeed, those getting access to land need to be able to use it in a way that contributes to improving their livelihoods. However, as some contributors to this book argue, over the past decade agricultural policy has failed to support the transformative vision of land reform. Rather, it has developed in ways that are antithetical to land reform.

The institutional separation of the departments of Agriculture and Land Affairs is part of the problem, but the artificial divide between state policies on land and agriculture is fundamentally a political problem that arose out of South Africa's emerging macroeconomic economic policy framework in the 1990s. Among the factors driving agricultural reforms was the ANC's commitment to ending the era of apartheid subsidies for white farmers. The ANC also faced international pressure to deregulate the economy and to liberalise trade, in the context of the Washington Consensus. There were thus both domestic and global pressures towards liberalised economic policy, including in agriculture. The result was a rapid process of dismantling the apparatus of state support to agriculture, including subsidies and marketing boards.

In this respect, the ANC-led South African government initiated its own structural adjustment programme and went beyond what was required by international institutions as it liberalised the economy. The question of whether the ANC could have engaged international actors and adapted these international norms, given the urgent need to confront the legacy of colonialism and apartheid, is an ongoing one. As Ntsebeza's chapter shows, one view is that, due to internal politics within the ANC and the emerging dominance of a neo-liberal faction, the ANC-led government did not use its potential room for manoeuvre to bring about structural change in the mid-1990s (see Marais 1998).

As agriculture was being liberalised, land reform policies were being developed within the constraints of a market-led approach and a policy based on a 'willing seller, willing buyer' principle. This led to a complex set of challenges and opportunities. White farmers confronted with the sudden withdrawal of state support, and exposed to foreign competition in domestic markets, had to adapt rapidly to remain in business. Winners and losers emerged from this process and there was a rise in bankruptcies and farm sales, which depressed land prices in some regions – though since the late 1990s land prices have risen dramatically across most of the country. At the same time, the agricultural policy reforms also led to a rise in job losses among farm workers.

As argued in Ruth Hall's chapter, this situation presents substantial barriers for new African entrants to farming, who are expected to compete with white farmers but without the benefit of decades of accumulated subsidisation. Representing the National African Farmers' Union at the conference, Motsepe Matlala confirmed that deregulation of agriculture and the withdrawal of state support services have produced an exceptionally hostile environment for new African farmers and called for more state intervention and public-private partnerships.

### *Land tenure and use*

Appropriate forms of landholding have yet to receive serious discussion and debate among activists, researchers and academics in South Africa. However, the adoption of neo-liberal policies, with their insistence on a prominent role for the market and a minimal role for the state, severely restricts the scope of policy makers. For example, the possibility of nationalising land, which was suggested in the Freedom Charter, was ruled out at the start of the 1990s. Contrary to many other countries, it is a South African peculiarity that reform has been framed largely in terms of transferring private property rights. The only area in which the state became the owner of redistributed land was in the municipal commonage programme, where municipalities acquired land to be made available to disadvantaged residents, primarily for grazing purposes.

Apart from individual land tenure, group ownership of land in private title emerged as the option most preferred during the first five years. This was partly by default. While some applicants wanted to own and use their land collectively, the impetus towards group ownership also arose from the need for groups of people to pool their state grants – which were small compared to the price of land – in order to be able to buy commercial farms being offered for sale in their entirety. This made individual ownership unfeasible. Despite the policy emphasis in the 1990s on creating a class of smallholder farmers, land redistribution led to large groups of people acquiring large farms intact.

The argument that there is an inverse relationship between size of landholding and productivity in agriculture, and that small farms are relatively efficient, was the basis for the World Bank and others to propose a smallholder class. This argument is elaborated in the chapter by van den Brink, Thomas and Binswanger. Another reason why this model might be appropriate is that

of the desperate need for people to be able to generate or improve their livelihoods, in a context of poverty and vulnerability, as emphasised in the chapters by Andrews and Cousins. In practice, though, the model of large-scale commercial agriculture, established through subsidisation by the apartheid regime, was perpetuated – this time through forms of joint ownership by Communal Property Associations, a new legal form of landholding for groups. However, the new owners of redistributed commercial farms were seldom able to continue with the same commercial land uses, because they lacked capital to invest and received very limited support in the form of direct subsidy or agricultural extension.

The advent of the Land Redistribution for Agricultural Development (LRAD) programme in 2001 heralded a shift in emphasis away from smallholder agriculture for the poor and towards creating a class of African commercial farmers through land reform. Group projects have been discouraged under LRAD and instead ownership by individuals or families is preferred. Because few can afford to contribute substantial own capital or loans, this places much of the land offered on the market beyond the reach of applicants. This led to the recognition that subdivision of large farms into smallholdings is needed in order to advance land reform and to make available appropriately sized parcels of land – yet people continue to express a demand for land that they can farm collectively. A number of contributions to this book, including that by van den Brink, Thomas and Binswanger, emphasise the need to expedite subdivision. Moyo's chapter, too, argues in favour of the social as well as economic benefits of small-scale farming. By contrast, Bernstein is generally critical of 'models'. He is particularly critical of the World Bank's smallholder model, premised on the relative efficiency of small farms without wider changes in the political economy. This ahistorical belief in models to reconcile equity and efficiency objectives he dubs 'agrarian populism' – a charge that he might level at some of the other contributors to this book.

The question of what would be an appropriate agricultural model to be followed was thus eclipsed by the policy design. It nevertheless remains a contested matter in policy debate. Commentators have questioned whether the way that commercial farmers use land is the best and most appropriate model, arguing that it is both economically and socially inefficient. This view is exemplified in the chapters by Moyo and by van den Brink, Thomas and Binswanger.

### *The politics of the land question*

What land reform is for, who should benefit and how should it be pursued are often treated as technical economic questions, but at its heart the land question is political – it is about identity and citizenship as well as production and livelihoods – and can be resolved only through political processes. The politics of the land question may be understood through the prism of the relations between key participants in this debate: the landless, the farmers, agribusiness, NGOs, political parties and trade unions. In recent years, the positions of some of these have tended to polarise, underlining the importance of research and debate to break through the impasse and inform policy development.

It must be noted in the first place that the organised voice ‘from below’ in the land sector was through a network of land-based NGOs that established the National Land Committee (NLC). These organisations had emerged during the apartheid period as a response to the forced removal of millions of Africans from white designated areas. In the 1990s, these NGOs forged strong links with policy makers in the DLA. Some of their members resigned from the NGOs and joined the DLA. They started to participate in developing policy and implementing land reform together with the government, hoping that some delivery would result. This was despite their misgivings about the market-led policy framework and, by 1996, the unilateral decision by the ANC leadership to adopt the extremely conservative set of macroeconomic policies under the misleading acronym of GEAR (growth, employment and redistribution), and the entrenchment of the market-based ‘willing buyer, willing seller’ principle as the basis for land reform in 1997 – all of these coming on top of the endorsement of the property clause in the Constitution.

As the programme unfolded, however, and the very small scale of delivery became apparent, NGOs increasingly questioned policy. Indeed, by 1999 when Thabo Mbeki came to power, the NLC affiliates found themselves in an increasingly difficult position. On the one hand they were drawn into implementing the limited land reform programme. At the same time, they were confronted with growing pressures from below in different regions, in particular farm workers and labour tenants who suffered abuses on white-owned farms despite the Extension of Security of Tenure Act and the Land Reform (Labour Tenants) Act. From 2001, some NGOs started to withdraw

from implementing the official land reform programme, turning their attention instead to the landless people themselves. These developments greatly contributed to the formation of the LPM in 2001. The NLC supported the establishment of the LPM. Events in Zimbabwe also helped to propel the formation of the LPM. The LPM forged links with the Brazilian Landless Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra* or MST) and is a member of La Via Campesina – the international 'peasant' movement.

While relatively small, the emergence of the LPM has had a significant impact on the politics surrounding land reform. But it must be said that its establishment, its efforts to advance the interests of, and give voice to, the landless, and to challenge the government's policy, including by threatening the coordinated occupation of farms to drive home their point, led to tensions within the NLC, ultimately leading to its untimely demise. After the initial optimism that the formation of the LPM would mark a new era in grassroots-based activism, faith in popular mobilisation as a driving force behind land reform appears to have been waning in recent years, not least due to the inability of the LPM to galvanise its membership towards a programme of action, including the land occupations it has threatened.

While the NLC and LPM were garnering most of the publicity and attention, there were lower profile organisations engaged in grassroots work with some local communities. They included the TCOE which, like the NLC, is a network organisation with a number of affiliates under it, and which was established by community-based organisations from various regions of South Africa. TCOE's roots are in the black consciousness movement, in liberation theology and the education crisis following students' protests and boycotts against 'gutter education' in the 1970s and early 1980s. Since 2000, the focus of TCOE has been on issues of land, local government and basic needs. To mark its 20<sup>th</sup> anniversary, TCOE organised a People's Tribunal on Landlessness in Port Elizabeth in the Eastern Cape in December 2003. Members of the tribunal were drawn from various sectors, including academics, lawyers and community leaders. An executive member of the LPM was one of the members of the tribunal. Witnesses included representatives from landless communities across the country, academics and researchers in the field of land, and government representatives.

Since then, the terrain has shifted yet again. Political parties have generally taken little interest in land reform, and none except the Pan Africanist Congress has challenged the basic tenets of the ANC's land reform. Among the ANC's tripartite partners, however, the Congress of South African Trade Unions (Cosatu) has acknowledged the importance of advancing a more progressive, rapid and pro-poor land reform and, since its Red October campaign in 2004, the South African Communist Party (SACP) has called for radical agrarian reform to replace the 'willing buyer, willing seller' market-led redistribution. In a bid to win a mass base among rural people, the SACP established an ambiguous relationship with the LPM. Both organisations supported the need for a land summit to revisit the fundamentals of land policy and to chart a course towards a new policy framework.

### *The national Land Summit of 2005*

No current debate on land reform in South Africa can ignore the historic Land Summit held in Johannesburg in July 2005. The summit was built around the theme 'A Partnership to Fast Track Land Reform: A New Trajectory, Forward to 2014'. The year 2014 is the new target set by government for the redistribution of 30 per cent of white-owned farmland to Africans. At the time of the summit, 11 years after South Africa's democracy, just over 3 per cent of the agricultural land had been transferred. The theme and the use of the term 'fast track', which most would immediately associate with the current land reform initiative in Zimbabwe, and indeed the resolutions of the summit, demonstrated this urgency.

For example, in the commission on land redistribution, far-reaching resolutions were taken, and later adopted by the summit. On strategic direction, for instance, there was overwhelming support that:

- the state should be proactive and be the driving force behind land redistribution;
- the 'willing seller, willing buyer' principle should be rejected;
- the state should have the right of first refusal on all land sales;
- land reform should benefit the poor, particularly women, farm workers and youth; and
- land should be expropriated.

Similar radical resolutions were adopted from the other four commissions at the Land Summit – on land restitution, on implementation strategy, on land tenure reform and on land use and sustainable human settlements.

From the early 1990s, as Lungisile Ntsebeza's and Mercia Andrews's contributions show, civil society organisations consistently criticised the emerging policy direction, and NGOs working within and implementing the policy framework were increasingly able to articulate this criticism based on their experiences on the ground. More recently, senior government officials have acknowledged the very serious challenges of redistributing land when landowners are unwilling to sell, when land prices are rising sharply, and when land transfers are not matched with support to assist the new owners of the land to make productive use of it. There is widespread agreement that the problems that land reform has encountered are not just with delivery; policy changes are needed to speed up the process and to improve the impact on livelihoods. These issues were also strongly articulated at the summit.

Shortly before the summit, more than 20 organisations, including the former affiliates of the NLC, TCOE, the LPM, Lawyers for Human Rights, Women on Farms Project and the Young Communist League came together to constitute a new consortium pressing for land reform, which they named ALARM (Alliance of Land and Agrarian Reform Movements). Its stated mission is 'for a people-centred rural transformation rooted in a rapid and fundamental transfer of land to the poor and the promotion of security for those living and working on the land'.

However, as Lungisile Ntsebeza's chapter notes, the attitude of the minority white commercial farmers who were delegates from the farmers' union AgriSA was vehement opposition to both the scrapping of the 'willing seller, willing buyer' principle, and what they argued was interference with 'the market' when it came to determining the price of land. They threatened that if the state interfered with the market, there would be consequences far beyond the imagination of those at the summit. They pointed to Zimbabwe as an example, threatening that those who defy the world, currently dominated by a neo-liberal agenda, will find themselves in a position where this world will boycott them, with dire consequences. In this regard, it was quite clear that the delegates from AgriSA were conscious that they represented broader, global neo-liberal capitalist interests.



It is not clear how things will develop after the summit. Land-based organisations, including the LPM, seem to have contributed to the decision by Minister Thoko Didiza to organise the summit. To this end, one can conclude that, although they remain weak and unorganised, land-based organisations can claim some victory for the occurrence of this event. A central challenge confronting land movements in South Africa, it seems, is organisation from below, the relationship between different organisations and movements, and the forms of pressure on the state at different levels.

While the summit witnessed some shifting political dynamics, with the state apparently acceding to a number of the demands of landless people's formations and their supporters in the NGO sector, and blaming landowners for hiking up prices, the key outcome of the event – a commitment to review the 'willing seller, willing buyer' principle – remains ambiguous. Some critical reflection is needed on whether it may indicate a shift towards a more state-driven land reform, but still within a market framework, and whether or not this might constitute the start of a 'new era' of land reform. The summit did not address constitutional issues, as called for by Lungisile Ntsebeza, or the specificities that Cheryl Walker emphasises are so important for success in land reform. The focus turned almost wholly on the mode of land acquisition rather than on issues of land use that have long been marginalised, or on the ways in which redistribution of land might be the basis for different social relations of production and reproduction in society – in other words, how land redistribution helps to resolve the wider land question or agrarian question.

### *The question of alternatives*

The summit illustrated the lack of coherent alternatives and resulted in a debate that runs the risk of being technicist, as stakeholders debate the merits of individual policy mechanisms such as expropriation, compensation, land taxes, subdivision of landholdings, limitations on foreign ownership, and so on, rather than focusing on the land question as a whole.

South Africans, both within and outside the government, are increasingly searching for alternatives, while still debating where the fundamental constraints lie. There are broadly three schools of thought. One view is that the fundamentals are in place, but there is a need to fine-tune policy, to manipulate land markets to make them more pro-poor and to improve the modalities of

implementation. The chapter by van den Brink, Thomas and Binswanger, for instance, demonstrates that thinking in the DLA and in the World Bank is increasingly moving towards options that involve more state intervention in land markets, without discarding the market-assisted framework.

A second view is that the neo-liberal solutions are not working and this demands a rethink within a capitalist paradigm (a version of the Keynesian approach). The chapter by Cheryl Walker, for instance, advocates a pro-poor programme that focuses on proactive land acquisition by the state to meet the needs of the landless. The chapters by Mercia Andrews and Ben Cousins also call for a more interventionist, state-led approach, but argue that this needs to happen in conjunction with social forces mobilising from below. These chapters share some common assumptions: that South Africa will continue to be a capitalist country in which property rights will be constitutionally protected. Within this long-term vision of mobilisation, Andrews argues that attention must be given to 'transitional demands'. Andrews and Cousins blame a lack of political will for slow progress with land reform and argue that the state can use the room for manoeuvre within the Constitution to advance transformation by expropriating land where necessary and paying below-market compensation to landowners, through a fair process. However, there remains the problem of sufficient public funds being made available, as this would nevertheless be an extraordinarily costly undertaking.

A third view is a radical, anti-capitalist and socialist perspective, which locates reform within the wider economy of South Africa and advocates cooperative farming and possible nationalisation of land. At the conference on the land question, Andile Mngxitama – a land rights activist who was, at the time, Land Rights Coordinator at the NLC – called for a democratisation of land ownership that would involve a people-driven (rather than state-driven) process of land occupations of unutilised or underutilised land. In a similar vein, Lungisile Ntsebeza in this book argues that, for fundamental land redistribution to take place, there is a need to revisit the constitutional framework which protects existing property rights that may have been acquired through colonialism and apartheid, to allow for expropriation without a market-driven compensation formula.

While all three of these views are evident among the chapters of this book, none has been clearly articulated in developed policy proposals or in public debate. All focus on the redistribution of white-owned farmland and reflect

the separation of this issue from the burning question of what is to be done about the former bantustans and what vision there is for the future of people living there.

There is a further view prevalent within the debate in South Africa, which is not represented in this book, namely, that land reform is not centrally relevant to the future of the country. The 'de-agrarianisation' view is exemplified in the controversial report of the Centre for Development and Enterprise (CDE), which argued that there is little demand for agricultural land among the rural poor, and that land reform has little potential to reduce poverty. Instead, it concludes that the existing commercial farming sector is an efficient model whose structure must be retained intact while being gradually deracialised. With faith in capitalism to create jobs, it advocated limited redistribution to a limited stratum of potential African commercial farmers, while prioritising provision of peri-urban land for settlement purposes. The CDE view has been widely criticised by academics, development practitioners, NGOs and government, and branded right wing, not least for its insistence that existing economic structures provide a basis for broad-based development and job creation. However, elements of the CDE perspective are also shared by some on the political left, notably among Marxists and within the labour movement, which have tended to see the rural poor and landless as a 'displaced proletariat'. Advocating proletarianisation, this traditional leftist perspective has both anticipated and advocated the absorption of the rural underclass into the urban working classes in the future. This is partly a strategic imperative but is also seen as part of the inevitable, even teleological, logic of capitalist development. Most of the contributions to this book fall between these two somewhat linear visions of economic development – capitalist modernisation on the one hand and, on the other, proletarianisation which precipitates a crisis in capitalism. The chapters in this book investigate the potential of land reform in a context where deteriorating conditions in the rural areas and the failure of the urban industrial economy to generate sufficient jobs call into question the paradigm of development being pursued.

Another issue that needs to be raised, on the question of alternatives and where South Africans can draw appropriate lessons, is the relevance of the Latin American and Asian experiences to South Africa. None of the South African contributors in this book deals with these continents. Yet, land-based South African organisations such as the LPM, NLC and TCOE have drawn inspiration from organisations such as the MST in Brazil, and La Via Campesina.

There remains a fundamental tension between conceiving of land reform as being a national project, yet decentralising implementation to the local level where it is framed as a series of discrete 'projects'. For this reason, implementation has involved the interaction of the national DLA and provincial departments of agriculture and local government – and has proved to be unwieldy. The alternative area-based approach suggested by Ben Cousins holds the promise of more coherent and integrated planning approaches, where access to and rights over land are part of wider local economic development planning, but it also runs the risk of placing land reform at the mercy of local politics. However, to the extent that it has been articulated, the area-based approach has consisted mostly of a state-centric view of how land reform can be driven by a planned approach, although Ben Cousins and Mercia Andrews emphasise a 'people-driven' vision of land reform. In this way, they remind us that, while the search for 'technical fixes' to land reform continues, it is a fundamentally political project and no major shift in policy and practice is likely in the absence of the mobilisation of potential beneficiaries.

Lastly, but equally importantly, a discussion on alternatives must raise the critical question of the role of intellectuals, and academics and researchers who are based in universities and have specialist interests in these land-related issues. They are often not part of the civil society that they investigate. At the same time, some have established collaborative links with rural organisations and make their research findings available to these practitioners. Additionally, given their capacity to investigate developments in other countries and draw lessons for South Africa, some academics and researchers are keen to share their research and findings with land-based activists. They can also bring their skills to bear by conducting policy-relevant research: to analyse experience to date, to reflect on why land reform has fallen short of expectations, to contribute lessons from comparative experience elsewhere in the world, and to propose possible directions for future policy. There remains also the challenge of using research not only to feed into policy but also to support social movements and civil society. A question that often crops up in this relationship is the issue of the 'politics of knowledge' and who determines the agenda. An issue that was debated among participants at the land conference was the perceived dearth of African academics and researchers, and the consequent need for academic institutions to be at the forefront of developing a new generation of African academics. This book demonstrates this ongoing challenge.

### *About the book*

A key objective of the conference was to solicit as broad a spectrum of opinion around the land debate as possible. Apart from academics and researchers, there were also presentations from government and civil society representatives. In planning this book, the Wolpe Trust hoped that all the presentations would be included. Unfortunately, it has not been possible to do so. Nevertheless, this book includes a diversity of institutions and perspectives, from the World Bank and the DLA to South African and foreign academic commentators and land activists.

The book has two sections. In the first section, the chapters by Bernstein and Moyo establish a theoretical, historical and comparative context for the South African debate, as discussed earlier in this introduction. In the second section, in six chapters, contributors present their perspectives on how the land question should be framed in South Africa, analyse existing land policy and its results, and propose alternatives and future directions for policy and practice. Hall reviews the current land reform programme in South Africa and identifies three main obstacles confronting it. Ntsebeza reflects on the constitutional parameters within which this has proceeded. Walker revisits the question of what we can expect from land reform and, by drawing attention to the quality of processes and livelihoods, emphasises its limits and warns against economic reductionism. Van den Brink, Thomas and Binswanger review the rationale for land reform and its application in South Africa, proposing new policy mechanisms within the market framework to improve implementation. Andrews suggests that the arguments presented by advocates of market-led land reform have proved to be fallacious and argues that organisation by the rural poor presents the most promising avenue towards a more radical policy framework. Cousins locates land reform within the debate on South Africa's 'two economies' and sets out a proposal for area-based agrarian reform that would open opportunities for more meaningful participation and more effective planning.

It is a challenging task to address the land question comprehensively, and three substantial shortcomings to this book must be noted. First, with the focus falling on issues of race and class, few of the contributions analyse gender dimensions of the land question. The chapters by Moyo, Walker and Cousins address the issue to a degree, but nevertheless the issue is not a

substantial focus of the book. Secondly, with the emphasis on redistributing commercial farmland, the issue of transforming land rights in the communal areas is largely absent, with the exception of Cousins's chapter. So too are farm workers, except in Hall's chapter. Finally, the perspectives in this book do not represent the full spectrum of debate in South African society. All agree – for different reasons – on the need for land reform. All agree that the current programme is inadequate and too slow. The value of the book stems not from covering the full range of opinion, then, but in illuminating the nuanced differences among those advocating land reform as a necessary means of resolving South Africa's land question.

Few books have been published on this topic. The most significant contributions during the early years of land reform in South Africa were *Agricultural Land Reform in South Africa: Policies, Markets and Mechanisms* (Van Zyl, Kirsten & Binswanger 1996); two volumes of *Land, Labour and Livelihoods in Rural South Africa* (Lipton, De Klerk & Lipton 1996; Lipton, Ellis & Lipton 1996); and a special issue of the *Journal of Peasant Studies*, entitled *The Agrarian Question in South Africa* and edited by Henry Bernstein (1996). A few years later, following a conference hosted by the Programme for Land and Agrarian Studies (School of Government, University of the Western Cape) and the NLC in 1999, a further volume was published, entitled *At the Crossroads: Land and Agrarian Reform in South Africa into the 21<sup>st</sup> Century* (Cousins 2002).

This book is the first, however, to review the land reform programme in its first decade and to present a range of views on alternatives to the existing land policy framework in South Africa, informed by the hindsight of ten years' experience. A decade after the advent of democracy in South Africa, the focus falls both on reflecting on experience and considering alternative policy approaches. In this respect, this book marks an important new phase in the debates on how to resolve the land question in South Africa. We hope it will contribute to a more robust and focused policy debate and to building linkages between practitioners, policy makers and academics.

#### Note

- 1 Harold Wolpe Memorial Trust website: <<http://www.wolpetrust.org.za>>.

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*Part one: Regional context  
and theoretical considerations*



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## 2 *Agrarian questions of capital and labour: some theory about land reform (and a periodisation)*

Henry Bernstein

### *Introduction*

Land reform is understood here as the redistribution of property rights in agricultural land. Much debate of redistributive land reform today hinges on inherited views of the virtues (and vices) of different forms of agricultural production and their effects on the productivity of land and labour in farming, and on livelihoods. Such debate can be conducted through narrower policy-centred discourses, or in a more expansive sense of redistributive land reform as a political project and terrain of contestation. The latter thus places issues of power and agency, charted by the course of class and popular struggles (with all their specificities, and inevitable unevenness and contradictions), at the centre of questions about land reform.

While the object of current debate, land reform has a much longer history in relation to agrarian questions in transitions to capitalism (and once socialism) and transformations of capitalism, and the times and places of these ‘world-historical’ processes. It also has a ‘broader’ history in the sense that the economic concerns noted are intimately, and inevitably, bound up with ideas about inequality and social (in)justice and the political struggles informed by such ideas. Land reform in this expansive sense is a central motif in the making of the modern world. From the French Revolution onwards, land reforms – of different kinds and by very different means – have a long, diverse and complex history in both North and South. Much of that history thus pre-dates development discourse in its contemporary form: a branch of ‘policy science’ centred on increasing economic growth and reducing poverty. This was institutionalised in state planning apparatuses and bilateral

and multilateral aid agencies in the distinctive global context after the end of the Second World War (that of decolonisation in Asia and Africa and superpower rivalry between the USA and the USSR), and has undergone various mutations since, not least in the current conjuncture of globalisation and ‘the Washington consensus’.

Moreover, the long(er) history of redistributive land reform discloses questions and problems – not least about power and agency – that today’s development policy agendas might confront or avoid in various ways, as suggested later. Land reforms have commonly sought to promote a range of goals, for example, social justice in the face of oppression (or seeking to maintain social stability) and enhanced livelihoods and security for those employed in farming, as well as a more productive agriculture. While advocacy of redistributive land reform often seeks to combine such objectives in a seamless manner (expressed, for example, in the neo-populist aspiration to ‘efficiency and equity’ – see later), tensions concerning these and other goals are evident in both major land reforms that emerged from social revolution in (mostly) agrarian societies and in the (intermittent) advocacy by development agencies of land reform – properly designed, packaged and managed as policy intervention – over the last 60 years or so, including currently by the World Bank.

Finally, permeating current debate of land reform – if in often unacknowledged (and unrecognised) ways – are ‘models’ inspired by particular historical experiences and their times and places. The potency of such models consists in how they are generalised and applied, explicitly or implicitly; whether such application facilitates or hinders analysis of the dynamics of other times and places, including what may be ‘changing before our very eyes’ today, and the implications of such analysis for the real worlds of politics.

In this chapter I try to locate, outline and assess two opposed traditions on redistributive land reform – those of Marxism and agrarian populism – that are rooted in earlier phases of modern history, and especially earlier experiences of the development of capitalism, and suggest why they should be reconsidered in a current era of globalisation. In particular, the ‘classic’ agrarian question in Marxism was formulated in relation to transitions to capitalism (and then socialism) and the challenges of industrialisation. It is suggested here, first, that there is no longer an agrarian question of capital on the plane of global capitalism today while, second, land redistribution acquires a new significance in agrarian questions of labour, given the inability

of contemporary capitalism to provide adequate and secure employment to the great majority of the working poor in the South. Exploration of this argument helps locate land reform debate in South Africa in more general processes, without ignoring its specificities in the racialised trajectories of capitalist development in South Africa.<sup>1</sup>

***Points of departure I: the agrarian question of capital (or the contributions of agriculture to industrialisation)***

*The schema of the 'classic' agrarian question*

Here is an outline of the schema of the 'classic' agrarian question. This was rooted historically in the original transition from feudalism to capitalism in England, and was then extended to other parts of Europe, to most of the major zones of the old agrarian civilisations of North Africa and across Asia during the period of modern imperialism, and likewise to the social formations of Latin America (including retrospectively to their periods of colonial rule).

1. 'Feudal' (or 'feudal-like') pre-capitalist agrarian formations are characterised, above all, by the social relation ('social property relation' in the term of Robert Brenner [2001]) between landed property and peasant labour: the surplus labour of the latter is appropriated by the former through rent.
2. The transition to capitalism requires a process of 'primitive' or primary accumulation that establishes the conditions of 'market dependence' (again Brenner's term, signifying the necessity of generalised commodity production for social reproduction: the essential condition and characteristic of capitalism).
3. This process is registered in the formation (over time) of classes – or at least class 'places' (Neocosmos 1986) – that exemplify a new (capitalist) social property relation: capitalist landed property, agrarian capital and (proletarian) agrarian labour.<sup>2</sup>
4. The logic of the capitalist social property relation, not least the competitive disciplines of 'market dependence', drives the growth of productivity of both labour and land (yields) in agriculture, especially through technical innovation and new technical and social divisions of labour (development of the productive forces).

If the *first moment* of the ‘classic’ agrarian question centres on establishing the conditions of increased (labour) productivity in farming, originally conceived as a transition from feudalism to (agrarian) capitalism, its *second moment* concerns the contributions of agriculture to industrialisation:

5. An enhanced surplus generated by agricultural productivity growth can be mobilised for industrial accumulation; whether this happens or not depends on the balance of forces between agrarian ‘surplus appropriating’ classes (agrarian capital, landed property, rich peasants) and emergent industrial capital, with the state typically central to the contributions, whether positive or negative, of agriculture to (initial) industrialisation (Byres 1996).
6. Dispossession of peasants (in primary accumulation) together with the growth of (labour) productivity in farming ‘frees’ labour required by the development of industry (and associated non-agricultural activities/sectors).
7. The growth of (labour) productivity in farming – and especially in food staple production – also lowers the reproduction costs of an increasing industrial and urban proletariat, thereby contributing to accumulation.

Capitalist landed property and agrarian capital (point 3 in the schema) can emerge by different paths in different historical circumstances, including through: (i) the ‘internal metamorphosis’ of pre-capitalist landed property (in Lenin’s phrase for the Prussian or Junker path; Lenin 1964), (ii) the class differentiation of peasants/petty commodity producers, or (iii) some combination of these two dynamics; while proletarian labour is generated from the dispossession of tenant peasantries by (capitalising) landed property and/or from class differentiation of the peasantry. In circumstances where pre-capitalist landed property is unable or unwilling to ‘metamorphose’ itself, redistributive land reform becomes a necessary condition of transitions to agrarian capitalism along a ‘peasant’ path (of subsequent class differentiation; Lenin’s American path).

### *The world-historical nature of capital*

The schema of the ‘classic’ agrarian question is part of what Marx considered the ‘world-historical’ nature and consequences of the emergence of capitalism, that is, of a general *logic* of social change which, once established, applies to – indeed imposes itself on – all parts of a world made up of (pre-capitalist) social formations destined to confront, and to follow, the schema outlined, by

one route (of primitive accumulation) or another, more or less rapidly, with greater or lesser upheaval and violence. This is the sense of the much-quoted observations in the Preface to the first edition of *Capital* that, ‘The country that is more developed industrially only shows, to the less developed, the image of its own future,’ and that continental western Europe at the time (by contrast with Britain) ‘suffer(s) not only from the development of capitalist production, but also from the incompleteness of that development’ (Marx 1976: 91).

At the same time, Marx’s observations point towards another, and highly charged, area of issues concerning the ‘world historical’ of capitalism, namely the ways in which its *uneven development* on a global scale manifests not only different trajectories, mechanisms and forms of capitalist transformation, but also affects the prospects of completing that transformation, as anticipated by Marx. The investigation and explanation of (as yet) incomplete capitalist development – and the suffering it generates, to invoke Marx once more – can follow the central thrust of either of the senses of the ‘world historical’ sketched: on one hand, the persistence (or reconfiguration) of pre-capitalist social relations and practices as barrier to capitalist transformation and, on the other hand, the modes of functioning of international/global capital, and the policies and powers of the leading capitalist states, as barrier to (‘national’) accumulation/capitalist development by other countries, notably those of the South (what was once called the ‘Third World’).<sup>3</sup>

Once a capitalist world economy, and its constituent international divisions of labour and markets, started to be shaped by industrialisation in the course of the 19<sup>th</sup> century, and by modern imperialism by the end of that century, this was bound to have effects for the realisation, or otherwise, of the logic of capitalist development outlined earlier in the schema of the ‘classic’ agrarian question. To put it differently, the trajectories and forms of the *transition to* capitalism in social formations where it is deemed yet incomplete are affected by both earlier transitions to capitalism elsewhere *and* subsequent transformations within capitalism in its dominant formations and global circuits.

The ‘classic’ agrarian question, I would suggest, is formulated within the first sense of the ‘world historical’ noted earlier, that of the conditions and processes of transition to capitalism within single social formations.<sup>4</sup> That is also why it is typically investigated and debated through a focus on exclusively agrarian classes (landed property, classes of agrarian labour, emergent agrarian capital).

Both aspects indicate what can be called an ‘internalist’ problematic, that is, centred on the class structures and dynamics internal to the countrysides of particular social formations. The ‘classic’ agrarian question, I would further suggest, is the *agrarian question of capital*, even though, as far as I know, it is not presented in these terms in Marxist discourse. To the extent that its logic of agrarian transition succeeds in accomplishing the social transformation and technical development of agriculture (points 1–4 of the schema), *and* in ways that contribute to industrialisation (points 5–7 of the schema), then the agrarian question of capital *also* subsumes that of labour as the two definitive classes of a new mode of production, representing historical progress. How well this inherited schema applies to the contemporary realities of (global) capitalism is a central concern of this chapter, to which I return.

### *The ‘golden’ age of land reform*

In the schema of the ‘classic’ agrarian question outlined, redistributive land reform can have a key function in certain historical circumstances as the ‘gravedigger’ of predatory landed property. Underlying this (misleadingly) simple observation is a series of momentous social upheavals that traverse the history of capitalism from the French Revolution onwards, and which culminated with particular intensity across much of the world in a period from the 1910s to the 1970s: the period *par excellence* of Eric Wolf’s ‘peasant wars of the twentieth century’ (Wolf 1969). Examples include Mexico and Russia in the 1910s, eastern and southern Europe and China in the interwar period (continuing in China into the 1940s and 1950s), and in the postwar period Bolivia in the 1950s, Vietnam and Algeria in the 1950s and 1960s, Peru in the 1960s, Mozambique in the 1970s, and Nicaragua in the 1980s. In all these instances peasant political action contributed to redistributive land reform, in many cases combining struggles against large landed property and its social power with anti-colonial or anti-imperialist struggles.

The resonances of land reform effected by ‘peasant wars’ thus remained potent in the period of state-led development initiated, and generalised, in the postwar conjuncture noted earlier. In effect, the period from the 1940s to the 1970s was simultaneously the last phase of Wolf’s ‘peasant wars’, and of the ‘golden age’ of land reform in modern history, which also coincided with, and helped shape, the period of state-led developmentalism following decolonisation in Asia and Africa. This was manifested in land reforms of



very different types during this period, driven by continuing (or renewed) impulses of social revolution, as in China and Vietnam; strategies to pre-empt the possibility (or 'threat') of social revolution, as in Italy, Japan and Korea in the 1940s and 1950s under US military occupation, and in the US-led Alliance for Progress in Latin America in the 1960s following the Cuban revolution; between the 1950s and 1970s in (other) state-led development strategies pursued by modernising regimes of varying nationalist complexions, from Nehru's India and Nasser's Egypt to the Iran of the last Shah.

This wide range of examples from the different zones and times of Wolf's period of 'peasant wars' suggests that more and less comprehensive land reforms were pursued for different purposes, by different social and political forces, through more and less radical means, and with various outcomes. First, some 'modernising' (nationalist) land reforms accelerated the pace of capitalist development in agriculture (often part of their rationale) while, the other side of the same coin, landless workers and poorer farmers mostly obtained less land (if any) than richer 'peasants' and embryonic capitalist farmers – in India, Egypt, Iran, and much of Latin America, for example – and especially women farmers and agricultural workers who generally continue to have the weakest land rights (Razavi 2003).

In short, land reforms in the name of 'land to the tiller' (a slogan shared across a wide ideological spectrum) seldom led to comprehensive redistribution in terms of who received land, except perhaps in the most dramatic instances of social revolution. Rather, who got land, what land, how much land, and what they were able to do with it, was contested along – and often followed – the contours of existing, typically intricate, structures of inequality in agrarian populations beyond that represented by landed property: most ubiquitously inequalities of class and gender; in some cases those of ethnicity and caste. Moreover, in terms of the 'classic' schema there does not seem to be any clear historical example of that path of agrarian transition through class differentiation of the peasantry that was able to generate comprehensive industrialisation (Byres 1991, 1996; Bernstein 1996).

Second, in other instances of major historical significance the initial dispossession and division of large ('feudal' or colonial-commercial) landholdings in favour of 'land to the (peasant) tiller' was quickly followed by collectivisation under communist regimes (in the USSR, China and Vietnam). This may be considered the (truncated) equivalent in socialist

construction to the formation of large-scale farming, and its contributions to industrialisation, in the agrarian transition to capitalism conceived in the 'classic' schema. Third, and similarly, in yet other (generally later) cases, when large commercial estates and plantations (often foreign-owned) were expropriated by socialist and radical nationalist regimes brought to power by national liberation struggles, they were immediately converted into state farms rather than divided for distribution (for example, in Cuba, Algeria, Mozambique and Nicaragua).

The most 'virtuous' realisation of the logic of the 'classic' agrarian question, in transitions to both capitalism and (once) socialism, is when rapid agricultural productivity growth can help finance an initial accumulation fund for industrialisation without severely undermining investment in farming and the living standards of its classes of labour. Sadly, such virtue is historically rare by contrast with far more vicious ways of trying to effect agriculture's contribution to industrialisation. This typically proceeds through one form or another of taxing agriculture, regardless of its levels of productivity and investment and the conditions of labour in the countryside – in effect satisfying the second moment of the 'classic' agrarian question without resolution of its first moment. This logic was clearly expressed in a notable contribution to the Soviet industrialisation debate of the 1920s by Preobrazhensky (1965; first published 1926), who adapted the 'classic' schema of capitalist agrarian transition to the imperatives of 'socialist primitive accumulation' by squeezing a peasantry that, following land reform, was now freed of the burdens of rent (rather than by collectivising the peasantry, which came soon, and very abruptly, afterwards in the USSR). Taxing agriculture as a basis for industrial accumulation was also reflected in some of the models of 'national development' pursued in the moment of independence from colonial rule in Asia and Africa, albeit without the consistency and force (and extreme circumstances) of the Soviet experience, *and* without generating the levels of industrialisation achieved in the USSR (see endnote 11).

In sum, redistributive land reforms played an important historical role in some agrarian transitions, both capitalist and socialist, by overturning pre-capitalist landed property and its predatory grip on agricultural production and producers. Such land reforms were followed more or less quickly, more or less brutally, by subsequent change in the forms of farming and whether and how agriculture – or more precisely different agrarian classes – could be

pressed into the service of a project of industrial accumulation pursued with more or less clarity and force by a range of ‘modernising’ regimes.

It is proposed here that from the late 1970s – the end of the ‘golden’ period – the historic notion of redistributive land reform as a ‘gravedigger’ of ‘feudal’ (or ‘feudal’-like) landed property was no longer applicable to the countryside of the South. Above all, this was because of changes in the development of capitalism on a world scale and of changes in the range of agrarian structures and dynamics it contains, to which I return.

### *Points of departure II: agrarian populism (or why small is beautiful)*

As Gavin Kitching showed to such effect in his seminal book *Development and Underdevelopment in Historical Perspective* (1982), populist ideas are a response to the massive social upheavals that mark the development of capitalism in the modern world. Advocacy of the intrinsic value and interests of the small producer, both artisan and ‘peasant’, as emblematic of ‘the people’ arises time and again as an ideology, and movement, of resistance to the changes wrought by the accumulation of capital. This is the case in both the original epicentres of such accumulation (northwestern Europe, North America) and those other zones exposed to the effects of capitalist development through their integration in its expanding and intensifying world economy, from 19<sup>th</sup>-century Russia to the South of today. Agrarian populism, in particular, is the defence of the small ‘family’ farmer (or ‘peasant’) against the pressures exerted by the class agents of a developing capitalism – merchants, banks, larger-scale capitalist landed property and agrarian capital – and indeed, by projects of state-led ‘national development’ in all their capitalist, nationalist and socialist variants, of which the Soviet collectivisation of agriculture in the 1930s was the most potent landmark. There are many varieties of populism, and of agrarian populism, that should be distinguished not only by their specific discursive elements and intellectual forms, but also by the specific historical circumstances in which they emerge and their varying political strength and salience. Not surprisingly, the moral dimension of agrarian populism – as defence of a threatened (and idealised) way of life – often encompasses strong elements of anti-industrialism and anti-urbanism. Such ideologies are often explicitly anti-proletarian too, as new classes of wage labour represent the same threatening urban–industrial milieu as business and political classes and ‘modernising’ state apparatuses.

While much agrarian populist ideology, then, is backward-looking and explicitly reactionary, it can also inform a particular model of agricultural development, a small farmer path that both modernises agriculture and reproduces an egalitarian agrarian structure. A key figure in the formulation of agrarian neo-populism in this sense – as a path of development alternative to large-scale farming (in both its capitalist and socialist versions) – was the great Russian agricultural economist AV Chayanov (1888–1937).<sup>5</sup> Chayanov’s innovation (and peculiarity) was his attempt to combine the following: a theory of the distinctive decision-making calculus of the peasant household, based in marginalist economics; a related view of peasantry as a distinctive type of economic system (akin to a mode of production) and as a ‘class’ (see later); his extensive research experience and empirical knowledge of farming in the Russia (and elsewhere) of his day; and an (explicitly) utopian vision of a future peasant Russia which integrated a strong modernism of social organisation and technique with just as strong a spiritual or mystical flavour.<sup>6</sup>

Chayanov provided probably the best definition of agrarian neo-populism: ‘a theory for the development of agriculture on the basis of cooperative peasant households, a peasantry organised cooperatively as an independent class and technically superior to all other forms of agricultural organisation’ (cited in Bourgholtzer 1999: 3, 16). The most important terms in this definition are ‘independent class’ and ‘technical superiority’. We can read the former as meaning ‘independent’ of both (predatory) landed property and its exactions (the burden of the past) and of state socialism and collectivisation as the ‘proletarian’ line in agriculture (the threat of the future). ‘Technical superiority’ refers to the optimal scale of a farm that can be managed and worked by *family* labour (which will vary with the technologies at its disposal), informed by the inimitable knowledge of its natural environment that it accumulates.

Neo-populism as policy discourse today, of which Chayanov is the intellectual ancestor, champions an agrarian structure of small farms as most conducive to efficiency and growth. The case for efficiency incorporates arguments about the intrinsic advantages of the deployment of family labour in farming (lower supervision and transaction costs) and the factor endowments of poorer countries (plentiful labour, scarce capital), and combines them with arguments about equity (the enhanced employment and income distribution effects of small-scale farming). In short, the answer of agrarian neo-populism to the fundamental question of land reform – to whom should land be

redistributed and why? – is, to those who are able to use it best (small farmers) *and* who need it most (as the ‘rural poor’). This is what is expressed so concisely and seductively in the notion of ‘efficiency *and* equity’.

Agrarian neo-populism as a policy discourse today further incorporates two central controversies in development debate: the so-called ‘inverse relationship’ and notions of ‘urban bias’ in development policy. The former maintains that smaller farms manifest higher productivities of land – output per area – than larger farms, as well as generating higher net employment (albeit at necessarily lower levels of labour productivity). Claims for the inverse relationship remain a central plank in continuing populist economic arguments for redistributive land reform, including – at least by inference, since this is often not made explicit – subdividing large(r) commercial farms to accommodate the landless and land-hungry rural poor. The other controversy, pertaining to the second moment of the ‘classic’ agrarian question, concerns ‘urban bias’: the notion that policies in the South in the period of statist developmentalism (1950s–1970s) favoured cheap food policies in the interests of strong urban constituencies and a (mistaken) emphasis on industrial development, at the expense of smaller and poorer farmers (see endnote 11). This was a notable component of the World Bank’s encompassing critique, from the 1980s, of state-led development strategies and their outcomes, with the added argument that poorer countries would do best to remove policy ‘distortions’ that impede the contributions of agriculture to their export performance (on the principle of comparative advantage) as well as to their domestic markets.

Most recently neo-populist approaches have adapted, more and less easily, to a new conception of market-led land reform, closely associated with the World Bank and its hegemonic grip on development discourse in this conjuncture of ‘globalisation’. I return to this later, while noting here that in the recent trajectory of neo-populism Chayanov’s expansive vision has been increasingly reduced to a set of arguments from neo-classical economics that can be accommodated to the dominant neo-liberal paradigm. For example, Chayanov emphasised economies of scale that he believed and hoped would be achieved through the cooperative pooling of resources and efforts by ‘peasant’ households. For contemporary neo-liberalism the most important feature of such household enterprises (‘family’ farms) is that they should be constituted on the basis of *individualised* property rights and production in properly competitive markets for land, as well as other factor and product markets, a position that Chayanov would not have endorsed.

For the ‘classic’ agrarian question, by contrast with the various currents of agrarian populism, once pre-capitalist landed property – with its predatory appropriation of rent (vs productive accumulation) – is destroyed, and a fundamental condition of capitalist agrarian transition is thereby satisfied, *there remains no rationale for (further) redistributive land reform*. Indeed, as the capitalist social property relation is established and delivers the anticipated productivity gains, any notion of redistributive land reform that advocates the division of larger, more productive enterprises (capitalist and/or rich peasant farms) into small-scale (‘family’) farms is *ipso facto* both reactionary and utopian (Byres 2004). It is reactionary in seeking to turn back the clock of progress and utopian in two ways: first, it is unlikely to be implemented as a political programme and, second, even if it were, it could not achieve its stated objective of ‘efficiency and equity’, of increasing agricultural productivity and rural employment and incomes on the basis of an egalitarian (and stable) agrarian structure of ‘family’ farms.

### *Into an era of ‘globalisation’*

#### *Issues in the political economy of agrarian change*

While controversy rages, and will continue to do so, concerning the causes, mechanisms, and implications (including new contradictions) of changes in world economy, politics and culture since the 1970s – as registered in debates about globalisation – there is little doubt that important shifts with far-reaching ramifications have occurred of which that decade, in retrospect, was a crucible. A familiar list would include the deregulation of financial markets; shifts in the production, sourcing and sales strategies and technologies of transnational manufacturing corporations (and agribusiness); the massive new possibilities attendant on information technologies, not least for mass communications, and how they are exploited by the corporate capital that controls them; the ideological and political ascendancy of neo-liberalism in (a selective) ‘rolling back of the state’, including the structural adjustment programmes, economic liberalisation, and ‘state reform’/‘good governance’ agendas imposed on the countries of the South (and former Soviet bloc). This is the context, and some of its key markers, that spelled the end of state-led development (or developmentalism).

Here I sketch some broad theses relevant to changing conditions which a (re)consideration of redistributive land reform in the present period needs to take into account. Some of the theses imply qualification of aspects of the 'classic' agrarian question as applied historically (for example, its 'internalist' problematic), hence even more so as applied to conditions today. Some concern processes that pre-date the current period of globalisation but are necessary to understanding its impact and which, in many respects, have intensified as direct or indirect effects of its dynamics.

*Thesis 1:* By the time of independence from colonial rule in Asia and Africa, the economies of their former colonial territories were permeated (like those of Latin America) by generalised commodity production, i.e. capitalist social relations of production and reproduction.

*Thesis 2:* Generalised commodity production includes both (i) the internalisation of capitalist social relations in the organisation of economic activity (including 'peasant production'),<sup>7</sup> and (ii) how economies are located in international divisions of labour, markets, and circuits of capital and commodities.

*Thesis 3:* Agrarian capital can have a range of sources beyond the countryside and its 'original', localised (indigenous) rural classes of landed property and peasantry; the range of non-agrarian, non-indigenous sources of agrarian capital is likely to expand and diversify, and their significance to increase, over the history of capitalism.

*Thesis 4:* Different types of agrarian capital (in capitalist and petty commodity production, among different peasant classes) are increasingly likely to be combined or articulated with forms of activity and income in non-agricultural sectors, or spaces in social divisions of labour, with (variant) effects for the specific forms of organisation, scale, economic performance, and simple or expanded reproduction of farming enterprises.

*Thesis 5:* There are similar tendencies to the decomposition of (notionally) once 'pure' classes of agrarian labour (including that combined with capital in petty commodity production) that have to diversify their forms, and spaces, of employment (and self-employment) to meet their simple reproduction needs as labour ('survival'), and in the case of petty commodity producers as capital too.<sup>8</sup>

*Thesis 6:* The agricultural 'sector' in capitalism today is not simply a set of relations between agrarian classes (landed property, agrarian capital, labour) or an aggregation of farm enterprises of different types, but is increasingly, if unevenly, integrated, organised and regulated by the relations between agrarian classes and types of farm, on one hand, and (often highly concentrated) capital upstream and downstream of farming, on the other hand; moreover, such integration and regulation operates through global as well as national (and more local) social divisions of labour, circuits of capital, commodity chains, and sources and types of technical change (including in transport and industrial processing as well as farming).<sup>9</sup>

*Thesis 7:* Important 'globalising' tendencies that affect agriculture in capitalism today include new strategies of sourcing by transnational agribusiness; new forms of organisation and regulation of global commodity chains for agricultural products; the high profile of agricultural trade and its regulation in the agenda of, first, the General Agreement on Tariffs and Trade from the mid-1980s, and now of the World Trade Organisation; and the drive of transnational agribusiness (chemical and seed) companies to patent, monopolise, produce and sell genetic (plant and animal) material, and to lock in farmers (in both North and South) to its use.

The salience of the processes and tendencies sketched for particular branches and types of agricultural production, and forms of agrarian capital and labour, in different times and places is a matter of investigation which, of course, is bound to reveal massive unevenness and variation. But recognition of such processes and tendencies (as of others relevant to the world of contemporary capitalism) can inform the agenda of identifying, and seeking to explain, what may be changing before our very eyes.

Here is a further, and final, thesis: with contemporary globalisation and the massive development of the productive forces in (advanced) capitalist agriculture, the centrality of the 'classic' agrarian question to industrialisation is no longer significant for *international* capital. In this sense, then, there is *no longer an agrarian question of capital on a world scale*, even when the agrarian question – as a basis of *national* accumulation and industrialisation – has not been resolved in many countries of the South. If there is no longer an agrarian question of (global) capital or of 'national' capitals (and 'developmental' states) in poorer countries today – because they lack the intent or the means, or both – might there be a (new) agrarian question of labour, separated from



its historic connection (and subordination) to that of capital and manifested in struggles for land against 'actually existing' forms of capitalist landed property? I return to this question after noting first the revival of land reform in current (neo-liberal) doctrines of development.

*Updating neo-populism? Enter 'new wave' land reform*

Several commentators accurately remarked on (and also lamented) the disappearance of land reform from the agenda of development policy during the initial moment of the neo-liberal ascendancy in development doctrine in the 1980s, concentrated as it was, above all, on the macroeconomic imperatives of structural adjustment. It is striking, then, that land reform reappeared in the development policy agenda in the early 1990s. Less surprising is that it has been reinvented in the terms of current orthodoxy: 'Previous land reforms have been unduly confiscatory, statist or top-down. "New wave" land reform, which is decentralised, market-friendly and involves civil society action or consensus is sometimes feasible and consistent with just and durable property rights' (IFAD 2001: 75).

'Market-friendly' land reform deploys a 'willing seller, willing buyer' mechanism, typically with special credit provision to potential buyers among the rural poor and land-hungry who qualify by dint of need (the equity argument) and serious intent (and presumed ability) to farm (the premise of the efficiency argument). Such 'new wave' land reform – like other manifestos of 'pro-poor' growth – claims a 'win-win' scenario: it will help overcome rural poverty by distributing assets and property rights more widely, fostering small-scale farming with its beneficial employment and efficiency effects while simultaneously stimulating more effective land markets.

I have considered elsewhere the reasons for, and likely effects of, the recent reappearance of agrarian neo-populism in the form of 'market-friendly' land reform (Bernstein 2002: 447–451, and references therein). Here I note only my view that it is driven principally by ideological and political considerations rather than by its overt economic rationale of 'efficiency and equity'. It is significant that the World Bank's highest profile attempts to implement 'new wave' land reform, and the strongest claims to its successful demonstration that (land) 'markets can work for the poor', concern middle-income countries with extreme inequalities and actual or potential intense social conflict over

land: Brazil with the challenges to property rights in land presented by the *Movimento dos Trabalhadores Rurais Sem Terra* (MST; Landless Workers' Movement); Colombia with its long history of violent civil conflict (*La Violencia*); Central America in the context of 'post-conflict' reconstruction; and South Africa during its fraught transition from apartheid.<sup>10</sup>

For present purposes, it is enough to note that theoretical arguments and evidence for the 'inverse relationship' and for the existence and effects of 'urban bias' remain strongly contested, as do the policy prescriptions derived from them (on the former Byres 2004; Dyer 2004; on the latter Byres 1979; Karshenas 1996).<sup>11</sup> Rejection of these two planks of agrarian neo-populism as policy discourse combines theoretical critique and methodological differences in the interpretation of a wide (and disparate) range of empirical evidence, notably agricultural survey statistics deployed in the manner of 'comparative statics' (e.g. Dyer 2004) but also concerning the historical trajectories of particular economies (e.g. Karshenas 2004).<sup>12</sup>

The theoretical critique of agrarian neo-populism emphasises its inability to recognise, let alone grasp, the social relations and contradictory dynamics of change of capitalism, hence the kinds of issues indicated by the theses presented earlier.<sup>13</sup> This is not surprising, since its 'bottom line', derived from and justified by the models of neo-classical economics, is that an egalitarian *and* stable structure of small 'family' farms, fully integrated in markets (i.e. commodity production) and exemplifying an optimal combination of efficiency and equity, *would prevail if not for market 'distortions'* – and distortions generated by policy failures (Griffin, Khan & Ickowitz 2002). A key tension, among others, at the heart of this conception is signalled by the strategic qualification in the earlier quotation from IFAD that 'new wave' land reform is '*sometimes* feasible and consistent with just and durable property rights'. It is impossible to give any meaning to a 'just' property right in capitalism other than by reference to non-market criteria (and indeed *anti*-market criteria).

And durability? This tension was grasped more boldly by Jacques Chonchol, head of agrarian reform in Eduardo Frei's Christian Democrat government in Chile towards the end of the 'golden period': '...a certain proportion of the new peasant beneficiaries (of land reform) will probably fail as entrepreneurs...it will be necessary to caution against too rigid an institutional link between the beneficiaries and the land so that a *natural selection* may take place later which will allow those who fail to be eliminated' (Chonchol

1970: 160, emphasis added). The (social) Darwinian metaphor he applies is appropriate to the logic of neo-classical economics, and of its particular idealised version of capitalism: retention of property rights is contingent on the efficient use of those rights as established by the impersonal rules of market competition. Chonchol's observation about the likely failure of some land reform beneficiaries confronting the rigorous disciplines of market competition is an oblique reminder of the tendencies to class differentiation among petty commodity producers inscribed in the capitalist social relations through which they are constituted. Less evident, perhaps, is that – where it exists – the modest but efficient 'family' farm (or 'middle' peasantry), at the core of the vision of agrarian populism, is itself one outcome of processes of differentiation in capitalism (Bernstein 2004: 193n13).<sup>14</sup>

However, on the ideological and political plane, and especially in the real worlds of politics, agrarian populism presents greater challenges than the (attenuated) policy discourses of neo-populism do on the plane of intellectual contestation. Populist ideologies, of various stripes and in various ways, claim to articulate the injuries of exploitation, oppression and injustice generated by structural inequality in the countryside, and to address them through redistributive land reforms. However weak the logic and evidence of neo-populism concerning production and productivity (as in the inverse relationship), what gives populist claims their ideological resonance is the links they make between redistribution and rural employment/poverty. And that resonance is the more potent to the extent that other approaches are unable to provide plausible alternatives to the problems of employment, poverty and insecurity that define the daily existence of the rural (and urban) majorities of the South: the starting point for considering (new) agrarian questions of labour.

### *A new point of departure: agrarian questions of labour?*

The principal interest of the 'classic' agrarian question was establishing the social conditions of the development of the productive forces in agriculture, an end to which redistributive land reform may provide an expedient (temporary as well as transitional) means, according to historical circumstances. Communist and socialist parties allied themselves with (and sometimes led) 'peasant wars of the twentieth century' against the reactionary weight of pre-capitalist landed property/landlordism, and *a fortiori* in contexts of anti-imperialist and

national liberation struggles. They also typically supported (at least initially) redistributive reforms – ‘land to the tiller’ – generated by the course of those struggles, but then confronted issues of the subsequent path of agrarian transition/development and the growth of scale it was deemed to require. And here, in the fateful shadow cast by the Soviet collectivisation of agriculture, was a tension of epic consequence for the *political* programmes, practices and fortunes of parties of the Left in primarily agrarian countries. They had allied themselves with popular sentiments, energies, and practices, sometimes of a deeply radical character, mobilised in opposition to exploitation and oppression, extreme social inequality and injustice. Were such concerns to be abandoned once predatory landed property was overturned, in the name of a path of development justified by a primarily economic theory/logic of agrarian transition: an organisation of agriculture that (at its most virtuous) would both reap the productivity gains of economies of scale *and* provide the accumulation fund for industrialisation?

How might political formations of the Left, in today’s conditions, present their answer to classes of impoverished farmers and workers, whose support they seek and whose interests they claim to represent, especially in conditions when they are engaged in struggles for political power (rather than having seized control of the state)?

TJ Byres, the foremost scholar in the tradition of the ‘classic’ agrarian question writing today, observes that ‘industrial growth...has been a crucial means by which rural poverty has been reduced and eradicated *historically*’ and that ‘the *historical* role of capitalist industrialization...has been the means by which massive rural poverty has been eradicated *in the past*’ (Byres 2004: 41, emphases added). And a strategic conclusion of his valuable international comparison of labour force statistics over a long historical period is that: ‘Clearly, capitalist industrialization, *to the extent that it is proceeding* (today), is absorbing a significantly smaller share of the labour force than in the past’ (Byres 2003: 200, emphasis added).

I quote Byres not to deny that significant industrialisation in (some) zones of the South in today’s ‘globalising’ world of capitalism may be possible, but rather to frame its possibilities through three observations. First, that the times and places – the when, where and how – of past histories of comprehensive capitalist industrialisation themselves have to be problematised and explored,

in terms of both their ‘internal’ *and* international conditions, class dynamics and mechanisms of accumulation.<sup>15</sup> Second, it cannot be doubted that poorer countries today confront more formidable barriers to comprehensive industrialisation – and *a fortiori* to the generation of comparable levels of industrial employment – than did the advanced industrial countries in the past.<sup>16</sup> Third, ‘the underlying contradiction of a world capitalist system that promotes the formation of a world proletariat but cannot accommodate a generalized living wage (that is, the most basic of reproduction costs), far from being solved, has become more acute than ever’ (Arrighi & Moore 2001: 75).

The reverse side of the thesis that ‘globalisation’ represents a new phase of the international centralisation and concentration, as well as mobility (and ‘financialisation’), of capital, is that it also generates an intensification of the *fragmentation of labour*. That is, the growing global masses of labour pursue their reproduction in conditions of increasingly scarce, insecure and oppressive wage employment combined with a range of likewise insecure ‘informal sector’ (‘survival’) activity, typically subject to its own forms of differentiation and oppression along intersecting lines of class, gender, generation, caste and ethnicity.<sup>17</sup> And, of course, many pursue their means of reproduction across different sites of the social division of labour: urban and rural, agricultural and non-agricultural, wage employment and self-employment – ‘footloose labour’ indeed (Breman 1996). This is one aspect of the fifth thesis sketched earlier (and its links with the third and fourth theses).

It is thus the crisis of labour as a crisis of reproduction – hardly unique to capitalism today but undoubtedly intensified by its globalising tendencies – that compels attention. Point 6 in the schema of the ‘classic’ agrarian question, outlined earlier, is that the development of the productive forces in agriculture and its manifestation in the rising productivity of farm labour has the ‘function’ (among others) of ‘releasing’/expelling labour required by the growth of industry (and associated urban branches of activity).<sup>18</sup> But what if the forms of capitalism, including industrialisation (‘to the extent that it is proceeding’), in poorer countries today are incapable of generating sufficient, and sufficiently secure, employment to provide ‘a living wage’ to the great majority?

One response, in a marked departure from the logic of point 6 of the ‘classic’ schema, is that some forms of capitalist agriculture create net additional

employment in farming, and thereby have at least some impact in reducing rural poverty. This is argued by Sender and Johnston (2004) with particular reference to the beneficial employment effects of some forms of contemporary capitalist agriculture, for example, agribusiness specialised in high-value export commodities (e.g. horticultural products) produced in ways that are *both* capital- *and* labour-intensive, as well as internationally competitive. The other side of the coin is their view that redistributive land reforms in contemporary conditions have negative consequences for employment and poverty, and especially for the weakest groups in rural labour markets. Sender and Johnston's position, then, is especially interesting. It represents an unusual (perhaps unique?) attempt to marry the 'classic' insistence on the superior productivity of large-scale (capitalist) farming with a forceful argument that it delivers greater employment and income benefits, especially to 'the poorest of the (rural) poor', than small-scale farming. In short, Sender and Johnston take on current (neo-populist) policy discourse on the terrain that it claims as its own, that of development strategy that reduces rural poverty. How convincing their argument is, and the evidence they deploy to support it, remains a matter of debate (Bernstein 2004: 206–209).

For present purposes, it is more appropriate to start from popular struggles over land today that are driven by experiences of the fragmentation of labour (including losses of relatively stable wage employment in manufacturing and mining, as well as agriculture), by contestations of class inequality, and by collective demands and actions for better conditions of living ('survival', stability of livelihood, economic security), and of which the most dramatic instances are land invasions and occupations. Such actions, driven by the desire to obtain land for farming as a basis (if not necessarily an exclusive basis) of livelihood and reproduction, manifest an agrarian question of labour.

There is now a revival and restatement of the significance of struggles over land to the social dynamics and class politics of the South during the current period of globalisation and neo-liberalism. While of wider relevance, this restatement incorporates a strong Latin American lineage that can be traced in the work of James Petras (from Petras & LaPorte 1971, written during the 'golden age' of land reform, to Petras 1997, 1998) – and all the more significantly so, given the massive rates of continuing rural–urban migration over the last three decades in Latin America, as well as the continent's generally much more developed capitalist agriculture and industry relative to South Asia and sub-Saharan

Africa. Moreover, in these conditions, writers like Petras and Veltmeyer (2005) emphasise that the social bases of contemporary land struggles in Latin America are significantly different from those of the ('classic') peasant movements of the past, and are much more rooted in the semi-proletarian condition: that of 'a workforce in motion, within rural areas, across the rural–urban divide, and beyond international boundaries' (Yeros 2002b: 9).

It seems to me that this topical literature embraces a 'range of (and combinations of) radical populist and materialist perspectives', as did much commentary and analysis concerning Latin American agrarian struggles in the 1960s and 1970s (Bernstein 2004: 206). I am unconvinced by the sweeping nature of its 'semi-proletarianisation thesis', and its political conclusion that the struggle for land is, in effect, the principal form of working-class struggle throughout the South (for example, Moyo & Yeros 2005). However, with all the exaggerations and analytical problems to which it is subject, this line of argument focuses attention on what should be the point of departure for the consideration of redistributive land reform today, namely recognising and problematising new agrarian questions of labour in the conditions of fragmentation of labour and intensified pressure on its reproduction generated by globalisation.

The structural source of the agrarian question of labour is that encapsulated by Arrighi and Moore (quoted earlier): the scarcity, and increasing scarcity, of employment that provides 'a generalized living wage (that is, the most basic of reproduction costs)'. To what extent, and in what ways that scarcity generates struggles for land, by whom, and how (the modes of struggle), are issues at the core of problematising agrarian questions of labour and understanding their specificities across a wide range of conditions – of agrarian structures and dynamics, rural and urban structures of class inequality (and their intricate interconnections), and labour markets and patterns of employment and reproduction in local, national and global circuits of economic activity (and their interconnections). Posing these questions in this manner contrasts with the three approaches outlined in this chapter.

Both neo-populism and the 'classic' agrarian question of Marxism (and its contemporary derivations), at their most schematic, reduce to strongly deductive, albeit opposed, 'models' of scale in farming – of the virtues of small and large respectively. What they also share, reflecting their original historic

sources, is an underlying if not explicit assumption that the virtues (and vices) of small- and large-scale farming are represented, and contested, by primarily (or exclusively) agrarian/rural classes of landed property, capital and labour – by contrast with the processes suggested earlier as characteristic of capitalism today (theses 3–5) and its dynamics of globalisation (theses 6 and 7).

In the contemporary world(s) of capitalist agriculture, it is also time, in my view, for historical materialism to reconsider its historic (and uncritical?) attachment to the benefits of large-scale farming for various reasons, including the following. First, it is salutary to recover a properly materialist (rather than technicist) conception of scale in agriculture as an effect of specific, and variant, forms of social relations. Second, the scale and distribution – *and* uses – of landed property in particular circumstances are often shaped by speculative rather than productive investment. Third, the productive superiority of large(r)-scale farming can be contingent on conditions of profitability underwritten by direct and hidden subsidy and forms of economic rent. Fourth, materialist political economy needs to take more seriously the environmental consequences of the technologies that give modern capitalist farming the astonishing levels of productivity it often achieves.<sup>19</sup>

These types of issue illustrate the challenges of, and demands on, an agrarian political economy of agriculture less confined by its historic sources and preoccupations and more committed to problematising what is changing in today's (globalising) capitalism. They are *not* presented as elements of a general argument *against* large-scale farming. Indeed, as should be clear, I am sceptical about *any* 'models' of (virtuous) farm scale constructed on deductive or *a priori* grounds. The problems of this procedure are apparent when it is applied – as it typically is in 'comparative statics' – across such different agrarian zones as, say, the densely populated and intensely cultivated areas of 'peasant capitalism' of South Asia with their often violent class struggle (Banaji 1990) and those areas of 'large uncultivated farms with fertile land near roads, markets and credit facilities' that the MST targets for occupation in Brazil (Petras 1998: 130). What should also be clear, I trust, is my belief that a materialist political economy (unlike agrarian neo-populism) has the intellectual means to confront contemporary realities, and to take on the challenges of recognising, and assessing, new forms of struggle in – and over – a wide range of socially and environmentally diverse countrysides.



*And their politics?*

This brings me to the third approach noted, that of conflicts over land as the principal terrain of class struggle throughout the (globalised) South, based in generalised ‘semi-proletarianisation’. There are issues in the political economy used to argue this position, and how it may be subjected to critique, which cannot be pursued here.<sup>20</sup> What I want to emphasise is that contemporary struggles over land applauded by advocates of this approach are typically far more complex and contradictory, and by extension more diverse, than they allow. This points to the always difficult (*and* unpredictable) process of ‘translating social facts into political ones’, especially when ‘the many ways in which power fragment(s) the circumstances and experiences of the oppressed’ (Mamdani 1996: 219, 272) are such a pervasive aspect of the ‘social facts’. And, it can be argued, such fragmentation of ‘circumstances and experiences’ is compounded by the (structural) ‘fragmentation of labour’ in the conditions of its pursuit of means of reproduction that was proposed earlier as a central feature of globalisation. On the one hand, there is a pervasive dynamic of class relations at work; on the other hand, those class relations are not manifested in, or as, (self-)evident or unambiguous class categories and subjects/agents in the manner of ‘purist’ class analysis. Popular struggles over land are more likely to embody uneasy and erratic, contradictory and shifting alliances of different class elements and tendencies than to express the interests of some (notionally) clear-cut and unitary class subject, be it proletarian or ‘peasant’, semi-proletarian or ‘worker-peasant’.

Once again, this is not to deny the class impulses underlying struggles for land – otherwise it would make no sense to conceive of agrarian questions of labour. Nor is it to withdraw political sympathy and support for such struggles because they fail to satisfy the demands of an idealised (class-purist or other) model of political action. The point rather is to recognise, and to be able to analyse, the contradictory sources and impulses – and typically multi-class character – of such struggles, in ways that can inform a realistic and politically responsible assessment of them. This includes recognising that agrarian questions of labour are typically only *one* element of many struggles for land – and an element that can be greater or smaller, more or less clearly articulated, more or less organised, pursued more or less effectively, *and* connected more or less programmatically with wider social and political struggles of labour.

## *Conclusion*

Struggles over, and for, land are widespread across the contemporary South today, with all their specificities and variation. In different conditions, to different degrees, and in different ways, many of these struggles manifest what I have termed agrarian questions of labour. Some methodological challenges of investigating and assessing them – satisfying the demands of a ‘concrete analysis of a concrete situation’, with its important political implications – were just outlined in a somewhat general (and prescriptive) manner. Elsewhere I have tried to illustrate, at least, the application of the approach recommended in relation to recent events in Zimbabwe as a unique case of comprehensive, regime-sanctioned, confiscatory land redistribution in the world today (Bernstein 2004: 210–220). A provisional conclusion, among others, was that the agrarian question of labour is significant in those events but as (only) *one* of a number of class (and other social) forces in Zimbabwe’s volatile, complex and contradictory dynamic.

From the contradictions manifest in Zimbabwe’s experience, I want to select two kinds of issue as part of these concluding remarks. The first is that, virtually without exception (the most notable being Tandon 2001), analyses of Zimbabwe’s agrarian question and its politics from a progressive position have neglected the positions and interests of farm workers. This registers a failure of political vision and intellectual commitment of great and grave importance.<sup>21</sup> The constituencies of the agrarian question of labour proposed here include wage labour in capitalist agriculture as well as more generally. To a great extent, according to circumstances, the political fortunes of struggles informed by agrarian questions of labour rest on effective means of negotiating and reconciling the interests and demands of quite different sections of workers (and small farmers or agricultural petty commodity producers), as well as – and indeed as necessary to – strengthening the position of labour in what are typically multi-class movements for land.

The second issue concerns the effects or outcomes of redistributive land reform. It also resonates the long-standing disputes between agrarian populism and the ‘classic’ agrarian question of Marxism about production and productivity in farming, if not to restrict us to the ‘models’ or paths of development each prescribes. The issue can be stated quite starkly: if land redistributions do not generate forms of farming that provide (aggregate) net benefits in

terms of livelihood, employment and incomes – that contribute to resolving the agrarian question of labour – then what remains of their rationale and purpose? In the case of Zimbabwe, there is little doubt that the immediate effects of ‘fast-track resettlement’ have been disastrous with respect to losses in production and employment of farm workers (Sachikonye 2003a), while the redistribution of land, of course, followed contours of class and gender inequality, and political power and patronage, with relatively fewer gains by those who are most dispossessed and oppressed (Sachikonye 2003b).

It is not adequate, in my view, to attempt to bypass difficult questions about the uses of land redistributed by popular struggles as, for example, in Gillian Hart’s proposal to ‘dis-articulate or delink the land question from agriculture’ (Hart 2002: 12, also 42–43, 292). Nor is it adequate to fall back on models of the inverse relationship (‘from mainstream agricultural economics’), as Moyo (2000: 8) does in the case of Zimbabwe, for an economic rationale and vision of a post-reform agrarian structure. Rather, difficult questions of the productive uses of land to resolve agrarian questions of labour indicate a new problematic and a new terrain of investigation in changing historical conditions which are not satisfied by the inherited models of either neopopulism or the ‘classic’ agrarian question (of capital).

At the same time, a materialist political economy has the analytical means essential to conceiving and exploring that new problematic in contemporary conditions of globalisation, and its variant manifestations. This does not provide a blank cheque to any or all struggles over land (avoiding the syndrome of ‘struggle’ voluntarism and triumphalism<sup>22</sup>), nor does it provide any simple or deductive optimal model of farming to those seeking such a panacea. Shedding such ideological and intellectual baggage, it seems to me, is necessary to establishing a new departure point from which redistributive land reform can be taken seriously in the framework of agrarian questions of labour.

### *Notes*

- 1 The chapter draws on recent work in Bernstein (1996, 2000, 2002, 2003a, 2003b, and especially 2004) and also tries to develop some of its lines of argument. I am aware that this may be difficult for readers unfamiliar with the kind of political economy deployed here in (unavoidably) abbreviated fashion, and can only refer them to work by this author and others that provides a fuller exposition. I have restricted the use of

footnotes to some key references that chart debates in political economy relevant to the consideration of land reform, with the occasional historical observation. I resist the temptation – or danger? – of citing or revisiting reflections on agrarian questions and land reform in South Africa over the last ten years or so by myself and others, to concentrate here on sketching a wider comparative and historical perspective.

- 2 Class ‘places’ that are also constitutive of petty commodity production in capitalism; see Gibbon and Neocosmos (1985) and, following their seminal argument, also Bernstein (1988, 2000).
- 3 The latter was the terrain of erstwhile ‘underdevelopment’ and ‘dependency’ theories, and now the terrain of some theories of globalisation. Alternatively, the two approaches indicated can be combined, with all the challenges of method this suggests (see endnote 15).
- 4 It is clear that while Marx and Lenin had a keen sense of the international dimensions of the ‘world historical’ of capitalism, both conceived of the transition to capitalism primarily in terms of a national framework. Thus Marx on ‘*the country* that is more developed industrially...’ (as cited), while the analysis of Lenin’s *The Development of Capitalism in Russia* (1964) – the fullest study in classic Marxism of contemporary processes of development in a ‘backward’ country – proceeds with virtually no reference to the international capitalist economy in which late 19<sup>th</sup>-century Russia was located (and by which, in effect, its ‘backwardness’ was defined) or to its effects for capitalist development in Russia.
- 5 Hereafter I use the terms ‘populism’ and ‘agrarian populism’ in their wide sense, including how they are manifested in political movements, and reserve ‘neo-populism’ for formal intellectual discourses/models in a line of descent from Chayanov to today’s doctrines of development (in the term of Cowen & Shenton 1996; see also Cowen & Shenton 1998a, 1998b).
- 6 The key texts are Chayanov (1966), comprising *On the Theory of Non-capitalist Economic Systems and Peasant Farm Organization*, and his remarkable work of fantasy, written during the harsh years of ‘war communism’ in the fledgling USSR, *The Journey of My Brother Alexei to the Land of Peasant Utopia* (Chayanov 1976). Of a large literature on Chayanov’s ideas and methods, one of Mark Harrison’s important essays (Harrison 1979) is particularly illuminating.
- 7 See Gibbon and Neocosmos (1985) and Bernstein (2000). This does not mean that the forms of production and social relations of poorer countries resemble those of an ideal-typified – ‘stereotypical’ in Lenin’s term – (‘advanced’) capitalism. It might suggest, however, that ‘backward’ agriculture is more likely to manifest ‘backward’ *capitalism* than ‘semi-feudalism’ (Dyer 1996).

- 8 As Sender and Johnston observe, 'small scale agriculture has, in many parts of Africa, become impossible without inputs purchased through labour migrant remittances' (2004: 153). Theses 3–5 more generally indicate the wide range of forms capitalist farming can take, as emphasised by Banaji, who argues that there is no (single) 'class structure that is prototypical of agrarian capitalism' (2002: 115). Khan (2004: 90) notes of Bangladesh: 'while these large (commercial) farms were not identifiably "capitalist" in the classical sense, they had innovated new institutional forms to deal with specific management issues,' notably concerning labour recruitment and the organisation of labour processes. He continues: 'Whether this is a transitional form on the road to more recognizable "capitalist" forms must for the time being remain an open question.'
- 9 England, where the early transition from feudalism and the 'agricultural revolution' of the 18<sup>th</sup> century laid the conditions of 'the first industrial revolution', was necessarily the key reference point for Marx's considerations of capitalist *farming*. It can be suggested, however, that it was the 19<sup>th</sup>-century USA that pioneered the organisational forms of modern capitalist *agriculture*, and not least Chicago and its hinterland with its associated industrial manufacture of farm equipment, corporate agribusiness, infrastructure for handling and transporting agricultural commodities in unprecedented quantities, and futures markets in farm commodities and other institutional innovations traced in the seminal study by William Cronon (1991). Post (1995) and Friedmann and McMichael (1989) are powerful analyses, from somewhat different perspectives in political economy, of the specific historical conditions of the extraordinary dynamism of US agriculture in the earlier and later 19<sup>th</sup> century respectively.
- 10 See *inter alia* Borras 2003. The largest single type of redistributive land reform today that attracts the attention and approval of neo-populism follows from the decollectivisation of agriculture in China, Vietnam and the former Soviet bloc (Griffin, Khan & Ickowitz 2002).
- 11 One riposte to the argument of 'urban bias' as an explanation of stagnant agricultural productivity and rural poverty is that taxing agriculture as a condition of industrial accumulation was not pursued in practice – *inter alia* because of the power of agrarian capital and rich peasants, that is, 'rural bias' (e.g. Byres 1979).
- 12 To these long-standing controversies are now added further criticisms of the claims of 'new wave' land reform, including from other, ideologically more radical, traditions of agrarian populism hostile to its market 'friendliness' (e.g. Ghimire 2001).
- 13 Issues of the class differentiation of the peasantry mark one of the principal sites of disagreement between the materialist tradition (since Lenin) and the various currents of agrarian populism. In an extraordinary essay Byres (1988) shows how Charan

Singh – a notable organic intellectual and political leader of rich peasant interests, whose long career included a brief period as prime minister of India – anticipated and articulated some of the key ideas of neo-populism in contemporary development discourse, including that of ‘urban bias’. The class character and significance of recent ‘new farmers’ movements’ in India is hotly debated between Marxists (e.g. Banaji 1994; Brass 1994) and radical agrarian populists (e.g. Omvedt 1994).

- 14 A useful indicator of this is that such ‘family’ farms commonly rely on hired labour. Asking where that hired labour comes from is to admit the rural class differentiation from which ‘family’ farmers/‘middle’ peasants emerge and which is necessary to their reproduction.
- 15 Schwartz (2000) is a recent account, of real historical depth and analytical illumination, of ‘the emergence of a global economy’ that combines ‘internal’ and international conditions.
- 16 Acknowledged by Kitching, for example, in his argument for ‘seeking social justice through globalization’ (2001: 152).
- 17 For example, the world of ‘unorganised’ labour is well ‘mapped’ for India by Harriss-White and Gooptu, who observe that, ‘Out of India’s huge labour force, over 390 million strong, only 7 per cent are in the organized sector’ (2000: 89; see also Harriss-White 2003).
- 18 Especially emblematic of the development of the productive forces in agriculture is mechanisation as a *labour saving* form of technology. The key historical source of the productive and symbolic potency of mechanisation was the massive expansion of wheat production in the *sparsely populated* late 19<sup>th</sup>-century farming ‘frontiers’ or ‘virgin’ prairie soils of Argentina, Australia, Canada and above all the USA, whence it was drafted into the iconology of the Soviet collectivisation of agriculture.
- 19 Foster (2000) is a valiant attempt to demonstrate the roots of an ecological materialism in Marx, with much fascinating material. However, the scepticism of Martinez-Alier (2003) about the centrality of ecological concerns to Marx’s political economy is more convincing.
- 20 Yeros (2002a) draws heavily on the (contentious) political economy of Samir Amin (e.g. 1976) and Alain de Janvry (1981).
- 21 Not least because of the contempt towards farm workers in the discourse of the Zimbabwe African National Union-Patriotic Front (Rutherford 2001).
- 22 In his fine study of Ecuador, which I read while completing this chapter, Steve Striffler warns that ‘it is crucial that we not idealize the [land] invasions nor their impact... to stop the historical narrative at just the moment when subordinate groups have

achieved some long-sought-after goal is not only populist, and dangerously so, but bad history. It is to replace processes with events' (2002: 110).

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# 3 *The land question in southern Africa: a comparative review*

Sam Moyo

## *Introduction*

The principal land question facing southern Africa is that little progress has been achieved in the implementation of land reform.<sup>1</sup> The enduring challenge is to redress colonially derived and post-independence unequal land ownership, discriminatory land use regulations and insecure land tenure systems which marginalise the majority of rural and urban poor populations. The legacy of racially unequal land control which confronted the former settler colonies was at independence maintained through constitutions which guaranteed the protection of private property and sanctified ‘willing buyer, willing seller’ approaches to the redistribution of freehold land. Those Southern African Development Community (SADC) states with legacies of limited settler colonialism have tended to face the challenges of promoting equitable legal and administrative systems of land tenure security and effective land management within a context of growing land concentration and agrarian class differentiation.

Land remains a basic source of livelihood of the majority of southern Africans and is key to the development of agriculture, tourism, mining, housing and industry. Economic development tends to be distorted by skewed agrarian structures. Thus the land question is not only an agrarian issue but also a critical social question. The rural–urban divide and the agricultural–industrial divide underlie persistently conflicted relations of class, gender, race and ethnicity, labour exploitation, and differential taxation and resource access, in the context of the marginalisation of the majority rural populations.

The peasant question in southern Africa has long been subordinated, in terms of ideology and substance, to white settler landlordism and institutionalised

racial discrimination, which the state and capital have justified as an agrarian modernisation project based on export-oriented capitalist agriculture (Moyo forthcoming a). Thus, land and racial conflicts which affect Namibia, South Africa and Zimbabwe have remained unaddressed, despite the fact that their peasantries continue to be marginalised, while in other southern African countries new land questions arise from emerging agrarian differentiation.

The land question in South Africa remains unresolved partly because of its gradualistic approach to land reform, but largely because the peasant question (or even the small farmer development trajectory) is underestimated by official policy and denied by intellectuals and civil society. This reflects the teleological tendency of discourses that envision greater industrial and non-agricultural employment growth, and diminished peasant demand for land, as well as ideologies which presume the 'inefficiency' of peasant production systems and livelihoods. Growing urban and peri-urban demand for land, required for housing and petty commodity production, contingent upon growing semi-proletarianisation and unemployment, has, however, also been neglected by South Africa's market-based land reform and neo-liberal social security policies. These trends raise the spectre of increased land conflicts resulting from the demands of a growing but blocked peasantry, rising urban poverty, as well as a nascent African bourgeoisie, poised against minority white landlords.

The dilemmas of the land question in southern Africa arise from a poor understanding of the influences of processes of peasantisation and proletarianisation. We need to attend to the nature of indigenous capital accumulation processes and the intra-class and racial contestations over the control of land. The co-opting of civil society in this context, and the persistence of distorted 'development' and democratic processes, are critical contradictions which shape social struggles for land reform and in search of alternative development paths.

### *The land question in southern Africa*

#### *From decolonisation to radical and neo-liberal land reforms*

The main differences in the land questions faced, and unresolved national questions, are defined by the different forms of settler colonisation in the

region, and the degree of colonial expropriation of land. Thus less explosive land questions are found in Swaziland, Botswana, Zambia and Malawi, where mild land expropriation and white settler occupation occurred, even though land concentration among Africans has become a source of contention. The most explosive land questions are found in Zimbabwe, South Africa, Namibia, Mozambique and Angola, where extreme settlerist land expropriation occurred. However, land expropriation and migrant labour mobilisation were intertwined facets of the growth of South Africa's regional agro-industrial, mining and commercial farm enclaves, and of Zimbabwean and Zambian mining and agricultural enclaves in the middle of the last century. The linkage of agro-industrial capital in the SADC region today reflects historically hegemonic settler interactions, within a development strategy focused on European exports, mediated through South African capital and regional labour markets. This development model defines the highly inequitable income and consumption distribution patterns, and persistence of marginalised rural and informal economies.

The national liberation process has had varied implications on the manner in which the national question, the land questions and democracy have been addressed in southern Africa. Where liberation was decisively concluded in Mozambique and Angola, in spite of internal armed conflicts over the national question, fuelled by external destabilisation, the land question appears to have been broadly resolved. Where liberation was relatively partially concluded, as in the main settler territories of Zimbabwe, Namibia and South Africa, negotiated settlements left both the national and land questions relatively unresolved. In particular, the racial dimensions of the national question have not been adequately addressed. Thus, racially inequitable structures of wealth, income and land distribution remain intact, while liberal democratic constitutions and market principles protect these inequalities and inequities, combined with macroeconomic stabilisation, extroverted trade liberalisation and deregulation of domestic markets. This limits the scope and pace of land and agrarian reforms.

The specific trajectory of land reform processes in the SADC region therefore needs to be examined in terms of the 40-year history of national liberation. The gradual shifts in the terrain of national independence and liberation struggles among the countries since the 1960s, distinguish their specific land

reform strategies. Thus, the SADC region of the 1960s and 1970s experienced a clear divide between the radical nationalist-cum-socialist orientation to land reform and liberal approaches. The former were based upon the nationalisation of settler lands and foreign commercial structures of capital, as pursued in Tanzania and Zambia in the 1960s and early 1970s, and in Mozambique and Angola from the mid-1970s. However, more liberal strategies of land reform were found during the same period in the smaller colonial 'protectorates', which faced indirect colonial rule alongside cheap labour migrant systems, in Botswana, Swaziland, Lesotho and Malawi. Here, land reform involved a limited degree of expropriation of settler lands, accompanied by market-based compensation with some colonial finance, as was the case in Swaziland and Botswana, for example. Such lands held by small settler communities were mainly indigenised. Limited foreign and white minority landownership and estate farming remained alongside state farms and resilient peasant and pastoral agrarian structures.

The nature and outcome of land reform radicalisation also varied. Tanzania, Zambia and Mozambique pursued socialistic land and agrarian reforms based upon largely state marketing systems, and reorganisation of land settlement and use, such as villagisation in Tanzania. Mozambique followed land nationalisation with even more intensive attempts at socialistic transformation of the land and agrarian question through state and cooperative farms, while Angola, mired in civil war, did not pursue further significant land reform after land nationalisation in 1975. Civil war in the lusophone territories, fuelled by South African destabilisation, contained radical agrarian reforms there.

The liberal approach to the resolution of the land question varied slightly. It consisted mainly of limited market-led land redistribution efforts and attempts to modernise peasant agriculture within a contradictory context of imbalanced public resource allocations. The latter were focused primarily on developing the large-scale indigenised and state capitalist farming subsector and their increasing incorporation into global agricultural export markets. This form of land and agrarian reform led to intensified land concentration in the various southern African countries, steady growth of agrarian social differentiation based on capitalist accumulation, labour exploitation and rural marginalisation, and a bimodal agrarian structure which became entrenched at different scales throughout the region.

## *Land concentration, privatisation and external control*

### *Historical context of the land question in southern Africa*

An underlying problem that confronts the land questions in southern Africa is the continued increase in population among the peasantries in marginal and congested lands, without a net increase in access to arable lands, and a slow rate of growth in land productivity and agricultural intensification. Discriminatory land use policies and practices, and land tenure laws, have tended to encourage underutilisation of land or inefficient land use among large-scale farmers, who nonetheless have high levels of productivity on the limited parts of the land they control. Yet, expanding the number of landholders through land redistribution could redress the land shortages and the patterns of insecurity of tenure that arise from maldistribution of land. Instead, land reform policies have focused on reforming the regulation of land use and environmental management practices among smallholders, and reforming customary tenures towards market-based land tenure systems, in the belief that these can lead to increased agricultural investment and intensification.

A persistent feature of the land question in the sub-region is therefore that racial imbalance and historic grievances over land expropriation provide a binding force for the political mobilisation of social grievance and growing poverty for land reform. Post-independence political settlement and reconciliation policies in Zimbabwe, Namibia and South Africa have not led to economic growth throughout the sub-region or delivered structural changes that include the majority into the formal economy. Not surprisingly, even in the non-settler territories the land problem and its racial foundations resonates. Thus conflict over land tends to be fuelled by ideological and land policy discourses that, in southern Africa, have not resolved the question of whether and to what degree the rights held by whites over land that was expropriated historically are valid and socially and politically legitimate (Moyo 2005).

Land reform discourses are further fuelled by the myth that the freehold landholding system and private land markets are more efficient and superior to customary (so-called communal) land tenure systems. This myth tends to justify the preservation of the dual tenure systems, while incorrectly arguing that land reform per se undermines food security and exports, as well as the



confidence of investors in the economy. While this may be correct where conflicted land transfers obtain, as in Zimbabwe since 2000, this could be a short- to medium-term transitional problem, depending on the support and agricultural resources given to new settlers.

Land conflicts today result from grievances over and struggles for access to land and natural resources by both the poor and emerging African capitalist classes. Such grievances reflect the deep roots of social polarisation along racial and nationality lines. These arise historically from the discriminatory treatment of Africans on farms, mines and towns through a proletarianisation process based on land alienation and cheap labour mobilisation, and the persistence of racially inequitable development. The increasing radicalisation of land acquisition approaches in Namibia and South Africa, and the growth of the tactic of land occupations in the SADC region since the 1990s, are manifestations of this common grievance over unresolved land questions, and the failure of markets or landowners to reallocate land to a broader constituency.

#### *Racial and foreign land distribution patterns*

The existing structure and patterns of land inequalities in southern Africa are based upon a relatively unique racial distribution of socio-economic features including population, wealth, income, and employment patterns (Moyo 2005). Settler land expropriation varied in southern Africa. It was most extensive in South Africa, Zimbabwe and Namibia, and occurred to a lesser extent in Mozambique, Swaziland, Botswana and Zambia. The largest scale of white settler land expropriation occurred in South Africa, where 87 per cent of the land was alienated by the 20<sup>th</sup> century. In Zimbabwe, an estimated 3 500 white Zimbabwean farm landholders had British and South African dual citizenship. The definition of who is indigenous remains contested by white minority groups who are citizens by birth or naturalisation. These land distributional patterns had far-reaching effects on race relations and socio-demographic features such as wealth, income, and employment distribution and patterns of economic control. After independence white settler populations tended to decrease, although the proportion of land held by white minorities has not decreased proportionately. Instead there has been a gradual increase in foreign landholdings in countries such as Mozambique, Zambia and Malawi, in the context of renewed interest by international capital in natural resources-based tourism and mining (Moyo 2005).

Countries such as South Africa and Namibia are confronted with unequal landholdings, with titled land in the hands of a few white commercial farmers. This pattern is excessive in South Africa, where 60 000 white farmers, who make up only 5 per cent of the white population, own almost 87 per cent (85.5 million hectares) of the land. Only 20 000 white commercial farmers produce 80 per cent of the gross agricultural product. A further 40 000, including some 2 000 African farmers, produce 15 per cent, while 500 000 families living in the former homelands produce an estimated 5 per cent. At least 12 million Africans inhabit 17.1 million hectares of land and no more than 15 per cent (or 2.6 million hectares) of this land is potentially arable (Moyo 2005; Moyo forthcoming a; Wildschut & Hulbert 1998: 5). Thus whites own six times more land in terms of the quantity of land available and its quality (Wildschut & Hulbert 1998).

However, Namibia has the highest number of white settlers – about 6 per cent of the total population. Commercial land under freehold title comprises approximately 6 300 farms belonging to 4 128 mostly white farmers and measuring about 36.2 million hectares. The freehold land covers 44 per cent of available land and 70 per cent of the most productive agricultural land, covering 36 million hectares. Only 2.2 million hectares of the commercial farmland belongs to African farmers. By contrast, communal lands comprise 138 000 households with an area of 33.5 million hectares, which is only 41 per cent of the land available (Adams, Sibanda & Turner 1999: 6; Adams 2000; Werner 2003: 3).

In countries dominated by customary land tenure systems, there is a tendency towards high population densities on land regarded as poor, around largely mountainous areas and scarce arable land. In fact, in Swaziland and Malawi, the struggle for equitable landownership invokes control by traditional leaders over land allocation (Mashinini 2000). Increased privatisation of state lands as part of a foreign investment drive has crowded out the poor onto the worst lands. In Mozambique, although all land is constitutionally state land, 'privatisation' of land started in 1984 as part of the implementation of structural adjustment programmes. This created grounds for racial animosity as foreigners, particularly white South Africans, tend to dominate this investment. Confrontation over land in Zimbabwe has seen the emigration of white Zimbabweans to Mozambique.<sup>2</sup> Mozambican officials have called for greater social integration of incoming white farmers to avoid the creation

of 'white islands' where commercial development outpaces that of the indigenous populations who surround these new settlers.

In Zimbabwe, before the Fast Track Land Reform Programme (FTLRP), most of the freehold lands were in the hands of 4 500 whites (0.03 per cent of the population) and located in the most fertile parts of the country, with the most favourable climatic conditions and water resources. White farmers controlled 31 per cent of the country's freehold land or about 42 per cent of the agricultural land, while 1.2 million African families subsisted on 41 per cent of the country's area (Moyo 1995, 1998; Moyo & Yeros 2005b: 171). White landownership is also differentiated: this ranges from family landowners to a few white-dominated large companies, most of which are multinational companies with strong international linkages. Whilst these companies tend to underuse most of their land, it is, however, the nationality and citizenship of large landowners that is mostly contested. In Zimbabwe it is estimated that between 20 000 and 30 000 white Zimbabweans are British and South Africans with dual citizenship. Dual citizenship is illegal in Zimbabwe and new amendments to tighten the law have recently been introduced, also generating problems around the citizenship of long-standing Mozambicans and Malawian farm worker migrants who have not yet denounced their original citizenship. While the definition of who is indigenous remains contested, absentee landownership exacerbates feelings against foreign landownership. In Namibia and South Africa, corporate ownership of land tends to hide the influx of foreign landowners, particularly those who are shifting land use from agricultural use to tourism.

Foreign landownership has a historical and contemporary dimension to it. The market paradigm shift of the 1980s saw new waves of migration by white large farmers into Zambia, Mozambique and Democratic Republic of Congo. This migration, encouraged by neo-liberal investment policies, has led to increased foreign landownership in many countries, and pressures for increased private land tenure property regimes in order to protect investments. The agricultural sector has been a prime target of such investment through lucrative incentives provided for foreign investment, especially in export processing zones. Past colonial land expropriation tends to now be reinforced by new land concessions to foreign investors. This tends to be complicated socially and politically by the physical absence of many foreign large-scale landowners. Foreign landowners increasingly use stockholding land tenure

arrangements for the control of land, especially in the growing ecotourist industry, thus increasing the globalisation of the region's land question (Moyo 2000, 2005). The rural poor are thus marginalised from their own landscape and their livelihood systems undermined.

*Contested settler notions of land size and peasant marginalisation*

Across southern Africa, per capita arable landownership per household has been declining due to the increase in population in customary tenure areas, while the few white and some African large-scale farmers own most of the best arable land. Thus, poverty tends to be concentrated in households with farm sizes under one hectare and especially under half a hectare (IFAD 1999). While poor African smallholders and the landless call for increased land redistribution, rural and urban African elites also call for access to large oversized commercial farms. Farm sizes in the region reflect the trends in concentrated land ownership. In Namibia, the average white large-scale commercial farm (LSCF) is 5 700 hectares. In Zimbabwe before 2000, the average LSCF was 2 500 hectares with variation between natural regions, while in communal areas the average farm size is around 2 hectares and in resettlement areas it is 5 hectares (Moyo forthcoming b). In South Africa 28.5 per cent of the LSCFs in the 1980s were larger than 1 000 hectares (Wildschut & Hulbert 1998: 7). In Malawi 40 per cent of the smallholders cultivate less than 0.5 of a hectare, with an average farm size of 0.28 hectares (IFAD 1999: 14). While resettlement programmes in the region proceed on the basis of small-sized farms averaging less than ten hectares of arable land, land reform based on controlling farm sizes through ceilings has not been pursued in most of the countries. This leaves a few landowners holding excessively large tracts of land. For example, about 66 landowners (with 158 farms) occupied over two million hectares of Zimbabwe's land by 1998 (Moyo 2005: 255).

The criterion used to determine viable farm sizes is based on a legacy of white settler notions of the 'small scale' being subsistence-oriented and the 'commercial' being large-scale white farms. Although the categorisation is posited as a function of different resource levels, there is a fundamental class and racial basis to its definition. Historically, large farms have prescribed higher levels of income targets for whites, against lower 'subsistence' incomes for Africans. The latter were required to provide cheap labour to supplement their incomes. Large farms are also said to allow for multiple land uses at

a 'commercial' scale, and to allow some of the land to remain fallow. They are also considered necessary for mechanised agriculture, on the false grounds that economies of scale obtain in large-scale commercial farming. Yet Africans have historically been unable to acquire large-scale machinery through institutionalised resource allocation biases and financial institutional discrimination. However, whilst many of the large farms so supported are productive by the region's standards, most of their lands are underutilised.

In order to conceal land underutilisation and speculative uses of land, white commercial farmers and multinational companies have tended to put their land under wildlife ranching even though the social and economic benefits of such uses remain contested (Moyo 2000). Game ranching and tourism in the form of conservancies require the exclusion of the poor from large areas. Various shareholding structures that remain in the clique of white farmers exclude both elite and poor Africans, who contest such arrangements through various strategies, including land occupations. The tourism sector has justified the exclusion of Africans by arguing that it is too technical for African smallholders' land management, and that its marketing requirements are too sophisticated for them. It is argued that the latter should instead concentrate on less technical crops such as food grains rather than horticultural export crops (World Bank 1991, 1995).

This racist notion is buttressed by the belief that Africans only aim to secure home consumption and residence, and that they do not require land for commercial uses. However, the output performance of smallholders, including resettled African farmers and those who have invested in peri-urban areas, demonstrates that with adequate access to land Africans contribute substantially to domestic and export markets (Moyo 2005). Unfortunately racism, including that found in some donor circles, continues to pursue the misplaced notion that when Africans obtain large-sized land through state support, it is only a reflection of unproductive cronyism rather than a deracialisation process. However, since historically whites obtained large-sized land through the same procedures, which were aimed at commercialising farming, such notions are unfounded. These contradictions of access to land based on race, class and nationality cleavages are thus a fundamental source of conflict over demands for land in a region where the hegemonic neo-liberal ideology in fact promotes agrarian capitalism, with lip service being paid to poverty reduction-focused land reform.

## *Land reform experiences in the SADC states*

### *The demand for land reform*

The demand for land redistribution both to redress historical and racial inequities and to address growing needs by the rural and urban African poor and African elites, has been a consistent feature of southern African politics and policy-making. Recently, most of these countries have formulated land policies in response to pressures for redistribution. These efforts are dominated by official perspectives that tend to emphasise the conversion of customary tenure systems to private freehold land. Most official analyses of the land question have, however, tended to underestimate the nature and scale of demand for land redistribution, and to ignore the racial tensions that have persisted as a result of the unfinished land reform agenda.

The demand for land reform takes various forms and arises from various sources. These include formal and informal demands; legal and underground, or illegal, demands for land redistribution; demands which may be based upon the restitution of historic rights; or contemporary demands based upon different needs. The different socio-political organisations which mediate such demands include civil society organisations, farmers' unions, political parties, war veteran associations, business representatives' associations, community-based organisations and traditional structures. The social content of these structures, however, is decidedly racially polarised in southern Africa, while the class composition of the 'visible' policy actors has been elitist.

Since the decolonisation of Zimbabwe, South Africa and Namibia, the debate on land reform has been mainly focused on market instruments of land transfer. Despite broad consensus among governments, the landless, landowners and the international community on the need for land reform in the sub-region, land reform remains limited. The onset of structural adjustment programmes, as well as multiparty 'democratisation' in southern Africa since the 1980s, has tended to reinforce the liberal political and market dimensions of debate on the land questions. In the process of economic liberalisation, however, informal rural political demands for land, including land occupations and natural resource poaching, have remained a critical source of advocacy for radical land reform, and have succeeded in keeping land reform on the agenda (Moyo 2001). Over time, the salient land demands of the African middle classes and elites have tended to be advanced within both

the ruling and opposition parties, within a liberal political and human rights framework, which leaves the fundamental issues of economic restructuring and redistribution of resources to the market (Moyo 2001).

*Limited civil society advocacy for land reform*

The predominantly urban-led civil society has not formally embraced the land reform agenda, perhaps due to the enduring, middle-class basis of its leadership, especially in the non-governmental organisation (NGO) movement. Rural social movements have been relegated to informal politics while giving prominence to more organised, middle-class civic groups and policy organisations that typically advocate market-based methods of land reform. Yet the race question of land reform persistently dominates land reform struggles and debate because the land to be redistributed is mainly expected to be land owned by whites, while the African potential beneficiaries compete for redistribution and affirmative action along class lines, but in the common name of healing the wounds of past grievances.

Over the years, the formal demand for radical or merely extensive land reform has tended to be submerged, especially in recent struggles for democratisation, by the proceduralist thrust of civil society activism, much of which is ensconced within a neo-liberal framework. This is reinforced by the fact that the balance of external aid, in Zimbabwe for example and elsewhere, has tilted in the last five years towards the support of governance activism. While such support is necessary, this trend has served to highlight issues of human rights and electoral transgressions by the state, to the detriment of the redress of structural and social rights issues. The exceptions here are food aid, HIV/AIDS and health, which defy the dichotomy and tend to be considered as basic humanitarian support. Civil society discourses on land reform, to the extent that these go beyond rule of law issues, have been focused on a critique of methods of land acquisition and allocation, without offering alternatives to land market acquisition and expropriation instruments, and without mobilising the more deserving beneficiaries of land reform in support of extensive land reform in the face of resistance by landlords and other stakeholders.

Southern Africa has not, historically, had an organised civil society that has made radical demands for land reform or land redistribution. Under colonial rule, the land cause was led by the liberation movements, and in the 1970s it

was pursued by means of armed struggle (Chitiyo 2000). In the independence period, land advocacy has been constrained by civil society's predominantly middle-class, social welfarist and neo-liberal developmentalist values, which are in turn dependent on international aid. The rural operations of NGOs within a neo-liberal framework have thus been characterised by demands for funds for small 'development' projects aimed at a few selected beneficiaries (Moyo, Raftopoulos & Makumbe 2000), and have left a political and social vacuum in the leadership of the land reform agenda.

Advocacy for land reform in the region has increasingly been dominated by former liberation movements' associations, scattered traditional leaders and spirit mediums, special interest groups and other narrowly based structures rather than by broadly based civil society organisations, as we have seen in Zimbabwe, Namibia and South Africa. In the latter, a few left-leaning NGO groups have supported the formation of the Landless People's Movement (LPM), although the contradictions of white middle-class intellectual leadership of African people's landless structures have become evident in the slow maturation of a nationwide radical land reform agenda.

So far a dual approach of land redistribution including large farmers and poor peasants dominates the formal or official land reform agenda in Africa, although resource allocations have tended to favour elites. However, white farmer organisations, African technocrats and many NGOs have tended to support the commercial farmer orientation of land redistribution, given their tendency to believe in the inefficiency of small farmers. This has shifted policy discourses on the criteria for access to land, refocusing the redistribution vision from the 'landless' and 'insecure' towards the 'capable' and 'efficient' indigenous agrarian capitalists, within the terms of the neo-liberal global development paradigm.

### *Neo-liberal land reform programme design*

In this context, the objectives and strategies for land redistribution adopted in the region vary. Land redistribution programmes have tended to emphasise rehabilitating and politically stabilising countries torn by armed struggles. The generic objectives of land reform in most southern African countries tend to include: to decongest overpopulated areas; to increase the base of productive agriculture; to rehabilitate people displaced by war; to resettle squatters, the destitute, the landless; to promote equitable distribution of agricultural land;



and to deracialise commercial agriculture. These are mostly underpinned by the aim of addressing historical injustices of colonial land expropriation and asserting the right of access of 'indigenes'.

Land redistribution initiatives in the region have tended to be constrained by legal, institutional and constitutional frameworks, which have led to costly and slow processes of land acquisition and transfer of land rights. Land redistribution policies have tended to be influenced by market-oriented approaches to land acquisition and circumscribed by the legal challenge by large landowners of the land expropriation mechanism, while the negotiated voluntary transfer of large amounts of land on a significant scale has not occurred. The experience with land redistribution in the SADC region has in general been based upon four interrelated tactical approaches.

Since the 1980s, Zimbabwe and Namibia used the liberal state-centred and market-based approach to land transfers. Land was acquired by the state for redistribution on a 'willing seller, willing buyer' basis, meaning that land identification and supply was market-driven. The governments identified the demand for land and matched it with the private supply. These programmes were slow in redistributing land, except during the very early years in Zimbabwe when this approach was accompanied by extensive land occupations on abandoned white lands. Another liberal approach to land redistribution, tried to a limited degree in South Africa and Namibia in the context of testing 'alternative' approaches, is the market-assisted land reform approach, espoused by the World Bank. This land reform approach is meant to be led by the private sector, communities and NGOs, who identify land for transfer and beneficiaries to purchase it within a market framework. Very little land has been redistributed through this approach so far, and this is mainly in South Africa. Malawi implemented this approach from 2005, using a World Bank grant of about US\$28 million to parcel out land to about 15 000 families in four pilot districts of the southern region. This approach was implemented in the context of usual macroeconomic policy conditionalities.

The use of compulsory land acquisition by the state was pursued mainly in the early independence periods, where expropriations with varying levels of compensation were adopted in Tanzania, Kenya, Zambia and, since the 1990s, mainly in Zimbabwe. This approach involves direct intervention by the government in the identification of land for acquisition, with or without compensation for land and improvements. Finally, a community-led land self-

provisioning (Moyo 2000) strategy has been followed in the form of 'illegal' land occupations by potential beneficiaries. This approach has tended to be either state-facilitated and formalised, or repressed by the state at various points in time (Moyo 1995; Alexander 2003; Marongwe 2003).

Land redistribution programmes increasingly combine these methods, although the market-based approach has remained dominant, given greater donor support for it. However, it is doubtful whether land reform without strong state intervention in the land markets is feasible, given the legacy of inequitable social capital and financial markets. Indeed, neo-liberal land reforms have tended to fuel renewed land struggles. Given the generally slow pace of land reform in the region, persistent popular demands for land redistribution – in terms of both redressing historical and racially grounded inequities and in terms of the growing demands by both the African poor (rural and urban) and African elites for land to enhance their livelihoods and accumulation strategies respectively – have consistently resurfaced on the southern African political and land policy agendas.

Official and formal studies tend to underestimate demand for land, especially in Zimbabwe, South Africa and Namibia. Recent experiences of rural land occupations in Zimbabwe and in peri-urban South Africa and Namibia show the intensity of popular demand for land redistribution among a diverse range of beneficiaries such as the rural landless, former refugees, war veterans, former commercial farm workers, the rural poor, the urban poor and the African elite (Moyo 2001). Thus, while land reform has been rural-oriented and focused on promoting national food security and agricultural development, urban demand has also come to the fore. The cutting edge of demands for land reform at this stage thus rests on expanding the access and rights to land by the poor, the landless, and disadvantaged sections of society such as women and farm workers, and a nascent African agrarian capitalist class.

### *The scale and nature of land redistribution*

The scale and social composition of those benefiting from land redistribution thus far has been narrow. Since launching the land reform programme in 1996 to correct colonial-era discrimination in ownership, the Namibian government has bought a total of 146 commercial farms covering 932 864 hectares which were allocated to a total of 5 890 families (1 538 families were

resettled on freehold land and 4 352 families in communal areas – altogether 38 000 beneficiaries) (IRIN 2005). Land reform in South Africa has gradually picked up pace, although only 3 per cent of the white-held lands had been redistributed by 2005 (Hall & Lahiff 2004: 1). By 1998, Zimbabwe had redistributed 3.6 million hectares to 70 000 families, during the first five years of independence. Between 2000 and 2004, about 130 000 families were resettled on about ten million hectares of land expropriated under the FTLRP (Moyo & Yeros 2005b: 195). However, much of the acquired land is still being contested by landowners, and the provision of infrastructure and services to the resettled families has been minimal, given the lack of state resources during the attendant economic downturn.

The demand for land redistribution increasingly includes the emerging African middle classes such as business executives, agricultural graduates, academics and civil servants. The key issue now facing the region's land reform policies is how to balance the control and access to land by existing large-scale landholders who underutilise their land *vis-à-vis* the demands of new small- and medium-scale aspirant farmers. Deracialising commercial farming is a policy perspective that has been gaining importance in this context, at the expense of the landless. In Zimbabwe, land reform in the 1990s promoted emergent African large-scale farmers in what appeared less a resettlement than a land reallocation programme intending to redress racial rather than class imbalances. Hence, by 1999 African elites held about 11 per cent of Zimbabwe's commercial farmlands. The FTLRP then added 19 000 new small- to medium-scale commercial farmers. In South Africa and Namibia policies have also changed over time and sought to create and empower African commercial farmers as an integral aspect of land reform.

In this context, land reform has tended to marginalise critical vulnerable and organised groups. For example, war veterans in Zimbabwe and elsewhere have received particular attention in policy but their prescribed quota of resettlement land has generally not been met. Whereas significant progress has begun to be seen in recognising women's land rights in policy, in practice women's land rights have remained marginalised in law as well as in practice in most of the countries. Farm workers' land rights, especially to residential and farming land, have tended to be marginalised in all the former settler territories. In Zimbabwe the FTLRP accommodated less than 3 per cent of the farm workers, while in Namibia and South Africa landlords continue to evict them at will.

## *The Zimbabwean dissidence in land reform*

### *Radicalisation of land redistribution strategy*

The re-emergence of radical land reform in Zimbabwe since the mid-1990s, and the relaunching in 1997 of the resettlement programme, coincided with the demise of its economic structural adjustment programme (ESAP). This marked a dramatic change in the political and economic relations between the peasantry and the state, *vis-à-vis* urban constituencies. Poor economic results and the failure of the state to raise consistent external financial support from international financial institutions meant that the state would not live up to its development promise. Failure of the 16-year experiment with both corporatist and neo-liberal policy regimes led to significant cracks in political and economic institutions (Bret 2003) and significant domestic political conflict within and outside the ruling party and the state. The ruling party, facing the cumulative erosion of urban jobs and wages, associated deindustrialisation, and land demands by the poor, resuscitated its liberation promise in the context of competitive electoral politics and increased inter-class competition over diminishing domestic and external resources and opportunities. Land reform as a potential instrument for restructuring the racially skewed economy, and as a basis for African accumulation, became the only integral and broadly legitimate resource that could be used for both trans-class accumulation and survival, as part of the economic indigenisation thrust and contestations of nationalist ideology.

This complex process has been rather simplistically defined as a crisis of nationalism and liberation consensus (Raftopoulos 2003). Such perspectives neglect the salient force of racial and class dynamics in competition among elites for primitive accumulation in Zimbabwe, and the severe constraints posed by global capital through ESAP on national accumulation and development, and their role in the current crisis of democratisation. Analyses based on short-term electoral contests focus on culturalist rather than structural approaches to the study of African nationalism and politics. These miss universal contradictions of peripheral capitalism and essentialise political practice in the periphery. As Bret (2003) has argued, theories of the uniqueness of the African state based on their perceived peculiar atavistic values and ascribed tendencies of thriving on disorder are untenable.

The FTLRP of the Government of Zimbabwe (GoZ) was essentially the product of the failure by various parties, including the government, large landowners, civil society, land advocacy groups and the international development assistance community to come to agreed terms of a collaborative and internationally financed land reform programme (Moyo forthcoming b). It changed in focus and approach over seven years from 1997, in line with the decline of the economy, deteriorating relations between the GoZ and the international community, and with the escalating domestic confrontation between the GoZ and domestic political opposition forces led by the Movement for Democratic Change. Increasing political differences among these parties led to the gradual radicalisation of the scale, pace and method of land acquisition by the state, which adopted the strategy of mass land acquisition that began in 1997 when 1 471 farms were targeted for expropriation (Moyo forthcoming b).

The radicalisation of land expropriation began in earnest with the falter of compromise and negotiation in 2000. The United Nations Development Programme report representing the views of most donors was, however, not accepted by the GoZ in 2002, given its proposed slower-track land transfer process, unclear funding processes, and the conditions for improved governance that it required. Thus seven years of dialogue over support of land reform had failed and the GoZ proceeded on its own to expropriate 90 per cent of the LSCF land in a staggered fashion, bedevilled by 'successful' landowner litigation and accompanied by sporadic violence and forced evictions on the white lands (Moyo forthcoming b).

While opposition parties in Zimbabwe, South Africa and Namibia sought to depoliticise the land issue and reduce it to a technical and managerial aspect of good governance, the ruling party in Zimbabwe advanced a politically mobilised FTLRP and then argued that the opposition parties sought to reverse the land reform momentum on behalf of the former colonial masters and landlords, whom they alleged had financed oppositional politics and civil society organisations. In the end the GoZ approach of state-led mass land expropriations, stimulated and accompanied by land occupations led by war veterans, mobilised various social classes in support of land redistribution (Moyo 2001; Bernstein 2005) in a process phased over five years from 1997, and it took three years from 2000 before the government declared it complete.

*Land redistribution outcomes and impacts*

The elites, particularly those with security and higher political leadership positions, tended to receive most of the well-endowed land allocations made under the FTLRP, and some held excessive lands (multiple or oversized farms), thus crowding out potential poor beneficiaries (war veterans, farm workers, women). Up to 178 elites had secured more than one land allocation covering an area of 150 000 hectares, without counting about 50 other African multiple landowners who had already acquired more than one LSCF farm by 1999 or those who had leased farms from the GoZ's indigenous commercial farmer scheme. The few remaining white farmers tend to have large farms, while most of the agro-industrial estate firms remain and currently hold more than one farm, with the majority of the latter being extensive landholdings.

The rate of land allocation to former farm workers, women and war veterans was also limited but varied in different parts of the country. Land allocation to former farm workers ranged from 2 per cent to 10 per cent in various districts. In some provinces a number of farms were specifically set aside for former farm worker resettlement; in others they were not. Women land beneficiaries averaged about 10 per cent, whereas the war veterans – who were promised 20 per cent of the land by the government in 1992 – received, cumulatively, land allocations which could have yielded the 20 per cent target. This means that women and farm workers were more severely prejudiced. A large number of farm workers were stranded (Magaramombe 2003), given that not more than 100 000 remain employed in the combined commercial farm sector. Women received the least resettlement land, even though their skills and labour tend to be critical to food production and rural livelihoods. This structural problem affects women former farm workers and their children, who continue to suffer poverty the most. Special efforts will be necessary to target women in a variety of productive activities and social protection schemes.

Expanded re-peasantisation has been the dominant phenomenon under fast-track land reform (Moyo & Yeros 2005b). The land reform process downsized and retained (as opposed to fully expropriated) 1 323 white LSCFs, although by the end of 2003 about 25 per cent of the 10 million hectares being acquired had not yet been allocated, due to an impasse in the land allocation negotiations, bureaucratic bottlenecks and settler conflicts.

The external financial isolation of the Zimbabwean economy, combined with internal policy incoherence and ongoing repression, will continue to aggravate the living and working conditions of the urban and rural proletariat and semi-proletariat (Moyo & Yeros 2005b). We expect landlessness, unemployment, casual employment, poor working conditions and incomes, low peasant farm incomes, and food shortages to persist as critical economic and political issues in the medium term.

### *Conclusions: regional dimensions of radical land reform*

The effects of the Zimbabwean land reforms since 2000, as a dissident model of radical land reform in the southern African region, need to be recognised (Moyo forthcoming a). The most commonly considered impact is the expectation that land occupations – as a popular strategy of redressing land grievances and hunger – might replicate widely, especially in former settler states such as South Africa (Cousins 2000), Namibia and even Kenya. The formation of the LPM in South Africa in 2001 is a significant sign but there are uncertain prospects of such diffusion, in spite of recent land occupations there (Andile Mngxitama, pers. comm.<sup>3</sup>). These expectations seem premature given that the political coalition for majority rule appears to be relatively intact, and that the economic growth prospects of South Africa are perceived to be promising, despite high levels of unemployment, poverty and wealth inequality.

The greatest incidence of land occupations in South Africa was in the late 1980s during the apartheid struggle, while sporadic land occupations were observed in the late 1990s in Botswana (Molomo 2002), Namibia and Malawi (Kanyongolo 2005). These incidences coincided with the low profile and sporadic land occupations that occurred in Zimbabwe. Given the strict evictions of land occupiers that the South African government began to pursue after majority rule, Lahiff (2002) could confidently claim that these would not spread widely there or elsewhere in the region and that, unlike Zimbabwe, SADC governments were even more intent on pursuing ‘orderly’ land reform. There has been a growing tendency among southern African governments to develop comprehensive national land policies rapidly to pre-empt the Zimbabwe scenario; we saw this in Malawi, Swaziland and Lesotho in 2001, and Botswana, Zambia and Angola in 2003 (Lahiff 2002). These are yet to be implemented and the SADC is currently in the process of adopting

a Regional Land Reform Technical Facility intended to mobilise aid and regional expertise to improve land policy formation processes (Lahiff 2002).

There have also been efforts to improve land redistribution policy and strategy in South Africa and Namibia since 2001, but in both these countries small-scale attempts to utilise land expropriation laws have had limited effect. In South Africa, streamlining bureaucratic procedures for land restitution has since increased the pace of land transfers, although the extent of the total effort is a far cry from the 30 per cent targets originally set for 1999, and now set for 2015. Namibia has falteringly instituted a land tax, which together with the threat of land expropriation may be expected to release more land for redistribution. Both countries are introducing regulations which limit the purchase of land by foreigners, particularly absentee landlords.

In most of these countries the most salient land policy change, however, and perhaps the one with the greatest potential to re-concentrate landholdings, has been the legal provisions introduced to enable customary land tenures, under which the majority of people live, to lease out land to developers through long-term leasehold and natural resource concession arrangements (Lahiff 2002). These policy developments largely emulate the customary tenure arrangements in Mozambique and Botswana and expand the land lease practices already found in state-held land and public natural resource property regimes. These policy directions have received much international donor support.

The crucial question is whether these reforms address growing land concentration, mainly among white and African elites and foreign owners, including multinational firms, in the agriculture, tourism and urban real estate sectors. Land concentration among African elites, to the exclusion of poor and 'remote' communities, generates further inter-elite conflict. These processes of land concentration are part of official policies aimed at developing agrarian capitalism and tourism, both based on export-oriented land uses. Perhaps because land concentration in countries such as Zambia, Botswana, Mozambique and Malawi has been less dramatically executed than was the case in the recent Zimbabwe process, the concentration processes are largely uncommented upon in regional and international discourses on the land question.



The further regional impact of both the white farmer relocations and declines in production in Zimbabwe has been the incipience of a restructured regional agricultural production and trade pattern (Moyo forthcoming a). Some of these impacts result more from the attendant debilities that face peripheral economies starved of foreign currency rather than directly from radical land reform itself. But they also reflect the new patterns of government–donor relations in general. In the cold war and apartheid era, development assistance was less concerned with governance and human rights issues, as aid was consistently focused on co-opting the ideological orientation and political alignment of states. The current stand-off between the GoZ and the international community over domestic governance transgressions, and Zimbabwe’s land reform approach of mass land expropriation supported by land occupations, reflects the regional dilemma of addressing the national question, distorted development and democratisation of settler territories.

An important lesson to be learned from the political independence settlements in the settler territories of the region is that, by not sufficiently addressing the problem of inequitable land and natural resource ownership, the downstream entrenchment of unequal racial economic opportunities is likely to fuel agitation for radical land reform. These underlying problems are relevant to the non-settler states. Thus, land reform which redresses historical grievances, addresses poverty and promotes social justice is a crucial ingredient of reconciliation and development, and essential to the resolution of the national question as well as processes of democratisation and regional integration.

### *Acknowledgement*

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### *Notes*

- 1 This chapter was originally presented as a paper at a Latin American Council of Social Sciences conference entitled ‘New hegemony. Alternatives of change and social movements’ in Havana, Cuba, and at a Centre for Policy Studies conference entitled ‘Southern Africa ten years after apartheid: the quest for democratic governance’. Elements of this chapter were developed from Moyo and Yeros (2005a), Moyo (2005), and Moyo (forthcoming a).

- 2 Mozambique expects 100 white Zimbabwean commercial farmers, while 10 had been allocated 4 000 hectares in Manica province. A group of 63 white Zimbabweans had requested 400 000 hectares, but the government of Mozambique has put a ceiling of 1 000 hectares per individual application (*Daily News* 20.07.2001).
- 3 Andile Mngxitama, former NLC Land Rights Coordinator, 2002.

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*Part two: Perspectives on existing  
policy and new directions for  
the future*

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# 4 *Transforming rural South Africa?*

## *Taking stock of land reform*

Ruth Hall

### *Introduction*

Land reform is an ambitious initiative. Although widely criticised for being too slow and tentative, it nonetheless constitutes one of the policy programmes of the African National Congress (ANC) government that seeks to restructure the agricultural sector and, by transferring access to and ownership of land from whites to Africans, to redress the injustice of colonial and apartheid dispossession as well as to transform social and economic relations in the countryside (ANC 1994). In 1994, the challenge was enormous: to respond to the demands of the landless for land and livelihoods and introduce a sizeable sector of African smallholders, in order to reduce poverty and promote equity.

This chapter reviews progress and problems in all three components of South Africa's land reform programme – land restitution, land redistribution and land tenure reform – and critically assesses these against policy frameworks and targets. It presents a combination of quantitative and qualitative information, noting policy developments and trends in land delivery. This review is used as an empirical basis to advance three interrelated arguments about the challenges of doing land reform in South Africa today. These indicate the need for a paradigmatic shift in approach.

The first argument is that the 'willing buyer, willing seller' demand-led approach adopted by the government has inherent limitations, which are illustrated with particular reference to grant-based land purchases. The failure thus far to intervene proactively in markets to meet demand has impeded reform; even where land reform has happened, the structure of agricultural holdings has been left largely intact. For these reasons, among others, the existing approach offers limited options for poorer applicants.

The second argument is that the persistent problem of 'post-settlement support' and the resulting underutilisation of redistributed land points to wider policy challenges beyond the realm of 'land reform'. While institutional coordination among state agencies is a necessary condition for improved impact on livelihoods, it is not sufficient. Direct state support for investments in production in the land reform context runs counter to larger historical shifts – specifically the deregulation of agriculture and dismantling of the state apparatus designed under apartheid to support white farmers.

The third argument is that budgets have become a key constraint on the programme over the past two years and, in the future, are likely to be a key determinant of, and constraint on, the pace of land reform. Perspectives on whether South Africa can afford to pursue the market-based approach are presented. It is argued that land reform confronts the state with the conundrum of attempting to buy out white privilege in a context of fiscal restraint.

### *A retrospective of the first ten years of land reform*

The target for land reform, proposed by the World Bank and adopted in the Reconstruction and Development Programme (RDP) in 1994, was to transfer 30 per cent of agricultural land within the first five years. This was to be achieved primarily through a market-led programme in which the state supported those wanting land – 'willing buyers' – to purchase land at market price from 'willing sellers'. This 'willing buyer, willing seller' policy was confirmed in the *White Paper on South African Land Policy* (DLA 1997). The state would also purchase land directly to restore it to those previously dispossessed, through a land restitution programme. As well as transferring ownership from whites to Africans, the tenure rights of people living in the communal areas of the former bantustans or 'homelands' were to be upgraded and secured, ending decades of second-class land rights for Africans. Farm workers and other people living on commercial farms owned by others were also to have secured rights, protecting them from arbitrary eviction and providing avenues through which they could become owners of their own land.

By 1999, however, less than 1 per cent of agricultural land had been transferred through all aspects of land reform. Not only was the pace painstakingly slow. A ministerial review during that year acknowledged emerging evidence that those acquiring land through the programme were underutilising it and not



benefiting from improved livelihoods, as intended. In 2000, following the review, the government adopted a revised and no doubt more realistic target of transferring 30 per cent over an extended time frame of a further 15 years, by 2015. A revised land policy was introduced to offer higher subsidies to those buying land through the redistribution programme, including those aiming to enter into commercial farming. Increased budgets and staff levels for the Department of Land Affairs (DLA) since then have helped to increase the rate at which land has been redistributed, though this is still well below the rate required to meet official targets. By February 2005, 3.5 million hectares had been transferred through all aspects of land reform – approximately 4 per cent of agricultural land (MALA 2005a: 8). To reach the 30 per cent target by 2015, delivery over the coming decade would need to be increased eightfold.

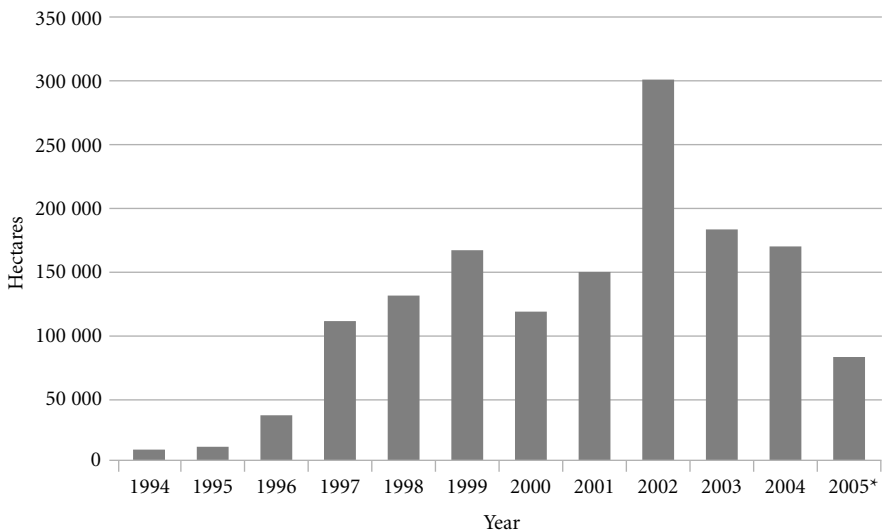
### *Land redistribution*

The land redistribution programme was to address the divide between the 87 per cent of the land dominated by white commercial farming and the 13 per cent in the former ‘homelands’. Redistribution was to ease congestion in the communal areas and diversify the ownership structure of commercial farmland. In the first ten years of land reform, most land transfers were through the redistribution programme, with restitution contributing just less than a third of the total. The total land redistributed through redistribution and tenure reform, as of September 2004, was nearly 1.9 million hectares (Hall 2004). Apart from its slow progress, land redistribution policy has also changed what the programme is supposed to achieve and whom it is meant to benefit.

Land redistribution started under the pilot programme from 1995 until 1999 and aimed to benefit poor households who could apply for state grants of R16 000 per household to enable them to buy land and have a little start-up capital. Only households earning below R1 500 a month were eligible for these grants. The small size of the grants compared to the price of land resulted in large groups pooling their grants to buy farms being offered on the market. This became known as the ‘rent-a-crowd’ syndrome and led to fears of overcrowding and unsustainable land use. The focus on land transfer and the lack of support for the productive use of land were widely recognised as key failings of the programme, which is considered to have made limited contributions to beneficiaries’ livelihoods (Turner 1997; May & Roberts 2000).

A new policy, Land Redistribution for Agricultural Development (LRAD), was launched in 2001 with the goal of establishing a class of African commercial farmers, and since then has emerged as the primary means by which people are able to acquire land. As the joint programme of the DLA and the National Department of Agriculture, it was envisaged as more closely linking land acquisition to support for new farmers (MALA 2001). After a hiatus during the ministerial review, land transfers through LRAD picked up pace, recovering to previous levels (Hall 2004). Delivery rose dramatically in 2002 and then declined from 2003 as a lack of funds held up the transfer of projects (see Figure 4.1).

**Figure 4.1** Land transferred through redistribution and tenure reform as at July 2005 (by year)



Source: MALA (2005b: 24)<sup>1</sup>

Note: \* Computed to July 2005.

Unlike its predecessor, the LRAD programme is not means tested (there is no income ceiling), and it offers grants on a sliding scale from R20 000 to R100 000, depending on the level of cash or loans the applicants are able to contribute. The result is that the poor must compete with others for access

to limited resources. The profile of LRAD grants and projects differs widely, both within and between provinces. Nationally, most projects are at the 'bottom' of the scale, as applicants are unable to commit financial resources. In some provinces, though, like KwaZulu-Natal, LRAD projects are clustered towards the top of the sliding scale, involving substantial capital contributions from applicants themselves as well as loan finance (Jacobs, Lahiff & Hall 2003).

Since LRAD is for agricultural land use only and gives priority to commercial farming, an alternative or a counterpart is needed to respond to the demands of those who are not in a position to invest in, or sustain the risks associated with, commercial enterprises – or whose interest is to get land for residential or other non-agricultural purposes. Although LRAD is only one component of the land redistribution programme, the 'rest of redistribution' outside of LRAD appears to be in a state of flux, with some programmes being phased out while others are still in the design phase (Hall, Jacobs & Lahiff 2003). DLA officials in the provinces appear unclear on the status of the Settlement and Land Acquisition Grant (SLAG). The grants are seldom used since LRAD offers more money. Although still technically available for applicants wanting land for settlement, in practice SLAG appears to be on the way out. The question of who will respond to the widespread need for settlement in the rural areas now falls between two stools, with DLA focusing on land for agriculture and the Department of Housing (DoH) focusing on urban settlement (Hall 2004). To illustrate, there has been almost no take-up of the rural housing subsidy, which enables those in communal areas to access housing finance, despite not owning the land on which they will build. A proposed Land Redistribution for Settlement sub-programme has been mooted, which would entail a trilateral partnership between local government, DLA and DoH to address the demand for land for settlement and other non-agricultural purposes. However, this has been in the drafting stages since 2003 and by early 2006 no policy was in place.

Another aspect of land redistribution is the provision of grants to municipalities to purchase commonage land to make available for public use, primarily to poor livestock owners. This has been a sizeable initiative: by the end of 2002, municipal commonage accounted for a third of all land transferred through redistribution. However, this has been patchy across the country, with most commonage being acquired for extensive grazing in the semi-arid

Northern Cape. Commonage has been de-emphasised recently, with few funds being made available, as the focus of redistribution fell increasingly on transferring land directly into the ownership of new farmers, through LRAD. One implication of the state of the sub-programmes of redistribution is that, in practice, a variety of land needs must be accommodated within LRAD.

While there has been progress in redistributing land from white into African hands, and the pace has improved over time, the existing programme is a far cry from the transformative vision of widespread redistribution that informed the Freedom Charter and, later, the RDP. It is more limited in its extent, is not strongly linked with a wider agrarian reform to restructure the rural economy, and has shifted away from an exclusive focus on the rural poor towards a vision of an African commercial farming class operating alongside the white commercial farming sector.

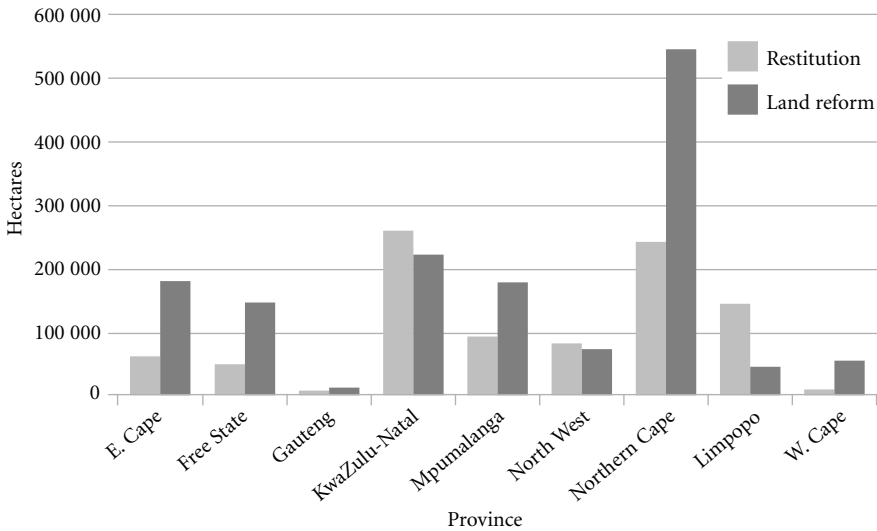
### *Land restitution*

Restitution of land rights in South Africa balances the imperative to restore land to the dispossessed with concerns to minimise disruption to agricultural production and political stability. The impetus for restitution came from people forcibly removed from 'black spots' into the so-called homelands, mostly within living memory, but the programme has come to encompass a much wider range of claimants, including those evicted in urban areas, former labour tenants on commercial farms, and those who lost land and livelihoods through 'betterment' planning in the homelands. Restitution has turned out to be a gradual and bureaucratically mediated process of returning land to the dispossessed. It is widely considered to be the success story of land reform in South Africa, as most claims are now settled; however, much of this has been done via the payment of cash settlements to urban claimants. Some of the most intractable, costly and potentially conflictual claims in the rural areas are yet to be addressed. These raise fundamental questions about (i) how the rights of claimants and current landowners will be addressed; (ii) financing the acquisition of land; and (iii) appropriate models of agriculture for resource-poor claimants.

As part of political negotiations in the early 1990s, the ANC agreed to limit land restitution to those dispossessed after the Natives Land Act of 1913; alienation of land through colonial conquest and successive attempts to drive Africans off their land prior to this time would not be addressed. Despite the circumscribed

nature of restitution, though, it is quite unlikely that those negotiating the terms of restitution at Codesa (Convention for a Democratic South Africa) anticipated the scale and cost of the programme, or its complexity. A total of 63 455 restitution claims were lodged with the Commission on Restitution of Land Rights (CRLR) by the deadline for submission in December 1998 but, although work on the claims had been under way for nearly five years, only 41 claims had been settled by March 1999.

**Figure 4.2** Land transfers through ‘land reform’ (redistribution and tenure reform) and restitution, as at June 2005 (by province)



Sources: MALA (2005a: 20); DLA (2006)

The pace of settling claims rose after the adoption of an expedited administrative method of settling claims – through negotiation between the claimants and the CRLR, rather than through adjudication by the Land Claims Court. By 30 June 2005, 62 127 claims were settled, transferring a total of 916 470 hectares (MALA 2005a: 20). However, as claims are investigated, they are often split up, and as a result the total number of claims increases. There are currently about 80 000

claims in all. The president set a deadline that all claims must be settled by the end of 2005 but, in view of the number of large rural claims outstanding, this was widely agreed to be unfeasible and in early 2005 the deadline was extended until March 2008. Even with the extension of the deadline, it is unlikely that all claims will be settled by this date, and even once settlement agreements have been signed, implementation of these – including the purchase and transfer of land, drawing up of land use plans, creation of human settlements and disbursement of development funds – may take a further decade, according to the Chief Land Claims Commissioner (Gwanya, pers. comm.).<sup>2</sup> Settlement of claims is not, then, an end point of restitution, but one moment in the longer and more complex task of restoring land and livelihoods.

Most of the settled claims are urban claims that have been settled with cash compensation. A PLAAS (Programme for Land and Agrarian Studies) study in March 2003 could identify only 185 rural claims (as lodged) that were settled and involved land being restored to claimants (Hall 2003). This also means that the bulk of the rural claims is still outstanding – estimated since 2004 to be in the region of 9 000 (Gwanya, pers. comm.,<sup>3</sup> MALA 2005a: 16). Where land is restored, large farms have often been transferred in their entirety to communities, who have moved onto this land and either allocated portions to their members for individual use, or attempted to farm the land collectively. Where poor communities have lacked capital to enable them to continue with existing operations on commercial farms, they have sometimes entered into joint ventures with commercial partners able to provide finance and expertise, or even leased out their land to the previous owner. These arrangements should be expected to emerge where resource-poor people become owners of commercial farms, in the absence of an agricultural support regime. They may be the best available options for the successful claimants, but these trends also call into question whether the restoration of land rights is adequate, or durable, in the absence of a wider process to restore livelihoods. As argued by Walker (2005), restitution addresses rights, but these may prove superficial if they cannot be used as a basis for development.

While some claimants have had their land restored, many more are still waiting for justice to be done – up to now, their patience with the process has been remarkable. As political pressure mounts to speed up the resolution of claims, new and innovative approaches to restitution will be needed, especially in those parts of the country where there are many overlapping

claims by different communities, and where large portions of districts are under claim. In some districts, however, the CRLR and district councils have started to map out claims and explore more holistic local-level solutions rather than proceeding on a claim-by-claim basis. Even so, major information gaps impede long-term planning for restitution. What is still *not* known about restitution claims includes how much land is under claim, where it is, what its market value is and how many claimants have claimed land. This information would enable strategic debate at a national level about the future direction, and likely cost, of restitution.

### *Tenure reform*

Redefining tenure rights is part of South Africa's land reform, and is led by a vision of a flexible tenure regime that legally secures the rights of people occupying and using land, balancing these equitably against the rights of owners. Alongside the efforts to transfer ownership of land to black South Africans through restitution and redistribution, tenure reform aims to redress the discrimination in terms of the nature of land rights held by Africans, specifically in the contexts of people living on commercial farms (estimated to be at least three million) and in the former bantustans (estimated to be in the region of 16 million) and elsewhere where people hold land communally.

Two laws have been passed to secure the tenure rights of farm dwellers: the Extension of Security of Tenure Act 62 of 1997 (ESTA) and the Land Reform (Labour Tenants) Act 2 of 1996 (LTA). Both aim to regulate tenure relations between owners and occupiers of farms and determine when and how occupiers may be evicted so as to prevent people from being arbitrarily evicted and left with no alternative place to go.

Government and civil society organisations have acknowledged that implementation of both laws has been weak and ineffective. Evictions continue to occur outside of the legal framework, though little is known about how many farm dwellers have been evicted either via the legal route or illegally. Available data from KwaZulu-Natal indicate that illegal evictions may outnumber legal evictions by as many as 20 to 1 in some regions – but in certain provinces, such as the Western Cape, evictions are increasingly happening through the legal route. The growth of new informal settlements suggests that the movement of people from farms is continuing.

As well as establishing these protective measures, ESTA and the LTA provide the means by which farm dwellers can acquire long-term secure tenure rights, either where they are or elsewhere or, if evicted, can get alternative accommodation, usually in the form of low-income housing. ESTA occupiers and labour tenants have acquired long-term tenure rights mostly via the provision of LRAD grants. The LTA goes further than ESTA in that labour tenants are entitled to claim the land they already occupy and use, and become the owners of this – in a process somewhat similar to restitution.

Official records show only 36 projects to provide long-term tenure rights to farm dwellers, mostly in the form of alternative accommodation in low-income housing to people evicted through ESTA (MALA 2005a: 62). This means that a minority of those facing eviction has been provided with an alternative place to stay or an alternative land-based livelihood. It appears that the 'developmental' aspect of ESTA has largely failed to materialise and instead it has become primarily a mechanism to regulate evictions rather than to reform tenure rights in a proactive manner. A national survey by Nkuzi Development Association in 2005 found that just under one million people were evicted from farms in the ten years between 1994 and 2003 – more than the estimated number of people benefiting from land reform – and that less than 1 per cent of these cases involved any legal proceedings (Wegerif, Russell & Grundling 2005).

The labour tenant process is proceeding slowly; it is not possible to say how many of the approximately 21 000 claims that were submitted by the deadline in March 2001 have been settled. The DLA reports that just 175 projects have been established, transferring over 96 000 hectares of land to labour tenants, which amounts to about 3 per cent of the land transferred through all aspects of land reform (MALA 2005a: 61). Because of the conflicts that have arisen between landowners and tenants in the process, interim dispute resolution mechanisms are being established at district level in KwaZulu-Natal and Mpumalanga.

In recognition of the serious deficiencies of these existing measures to reform farm dwellers' tenure rights, new legislation has been drafted to strengthen the content of their rights and to consolidate ESTA and LTA into one law. This has not yet been made public and it is unclear what changes to farm dwellers' rights will be proposed when the Bill is tabled in Parliament, which was due to happen during 2002 (but, as of early 2006, the Bill had not yet been



published). Farm tenure reform does need to be seen as part of a redistributive reform – rather than confirming the status quo – but at present farm dwellers are becoming an invisible category within LRAD alongside other eligible applicants for discretionary grants.

While tenure reform in the commercial farming areas has focused on balancing the rights of landowners and farm dwellers, in the communal areas of the former bantustans or homelands, tenure reform is needed to clarify who has rights to what land, the nature and content of these rights, and how they are to be allocated and administered, recorded and adjudicated. The Communal Land Rights Act 11 of 2004 (CLRA) was passed by Parliament in February 2004. The Act empowers the Minister of Land Affairs to transfer ownership of communal land from the state to communities residing there, to be held under ‘new order rights’, whose content is not yet defined. The Act is to provide for the democratic administration of this land by the communities who own it. It requires that land administration committees allocate and administer the land, in terms of ‘community rules’. These rules must be written down and registered, which will convert a community into a single ‘juristic person’ capable of owning property. However, where they are in place, traditional councils set up in terms of the Traditional Leadership and Governance Framework Act 41 of 2003, and comprising 60 per cent unelected tribal authorities and their appointees, will play this role of land administration instead of elected committees.

Critics of the CLRA have argued that it reinforces the powers of unelected tribal authorities and compromises democracy in the rural areas; fails to address congestion in the reserves or confront gender discrimination in access to communal land; fails to secure land rights or protect members from illegal sales of land; and expects unremunerated community members to take on the task of land administration which, for the rest of the country, is a service provided by the public sector (Claassens 2003; Ntsebeza 2005). The latter suggests that, far from overcoming the dualism between the commercial farming and communal areas, the extension of private land titles to the latter may aggravate rather than reduce disparities between these rural areas, as there will still be limited public support to administer land rights in the communal areas compared to the rest of the country.

Tenure reform policy is intended to address the chaotic state of land administration in the communal areas of the former homelands and coloured

reserves. However, communal tenure reform is the least evolved of all aspects of land reform, with implementation of tenure reforms in the former homelands planned to start only in 2006.

### *Reflections and challenges*

The pace of delivery, in terms of land transfers, while still slow compared to national targets, increased in the period 2001 to 2006. The pace of settling restitution claims has improved dramatically, but most have been settled with cash and there has been limited restoration of land to claimants. Land budgets are now being spent, budgetary allocations for restitution have increased and this is set to continue, though budgets prohibit the scaling up of redistribution. Farm dwellers' rights have been poorly enforced and there now appears to be a gap in policy to drive tenure reform on farms. Implementing partnerships have been created with a range of statutory and non-statutory agencies, and the private sector is increasingly engaging in a parallel process of supporting African farmers to enter the sector, but land reform applicants face substantial difficulties in acquiring suitable land on the open market. Post-settlement support now receives some funding, but there remains disagreement among key players on roles in providing and funding post-transfer support. A further challenge is to integrate land reform into local development planning and to monitor and evaluate systematically the impact on livelihoods – a prerequisite for increased budgetary allocations and possibly also of political will to prioritise land reform.

Despite incremental improvements in delivery across most areas of land reform, then, there remain fundamental weaknesses in how the programme has been conceptualised. In particular, three key challenges now face the programme.

#### *Land acquisition*

First is the problem of land acquisition: how land is to be acquired and transferred at scale – and the limits of a 'willing buyer, willing seller' demanded approach. The 'willing buyer, willing seller' approach makes land reform contingent on the willingness of current owners to sell at the prices that grant applicants can afford or, in the case of restitution, at the prices the CRLR is prepared to offer. However, South Africa has a fairly active land market, with

an estimated 6 per cent of agricultural land being transacted each year, but opportunities to acquire land through the market for land reform have been missed. This is because the size, shape and infrastructure of commercial farms are often inappropriate. Proactive measures to subdivide agricultural holdings are needed to make available suitable parcels of land for land reform.

In the land redistribution programme there exists a basic contradiction between (a) the high land prices of whole properties being offered at market price, (b) the grant size, which limits poorer applicants to R20 000 each, and (c) the limits being placed on applicants pooling their grants, as group projects are now being discouraged. It is difficult, and may be impossible, to buy existing commercial farms with small grants, unless there are many people in a group – but big groups are no longer allowed (MALA 2001). Reform in this context allows limited deracialisation rather than structural change – and puts much of the land on the market out of the reach of would-be beneficiaries.

Generalised availability of land on the market, of course, is not relevant in the context of restitution, where claims are made on specific parcels of land. The government's reluctance until now to use its existing expropriation powers has given current landowners an effective veto on land restoration; claimants have been offered alternative land or cash compensation instead. The Restitution of Land Rights Amendment Act 48 of 2003 empowers the minister to expropriate land without a court order, thereby strengthening the powers that the government has, up until now, chosen not to use. Thus while some commentators have emphasised the limitations presented by the 'property clause' in the Constitution, including Lungisile Ntsebeza's chapter in this book, at present the most immediate constraints on a more proactive and interventionist approach to acquiring land for redistribution or restitution appear to be more political than legal.

The question of how suitable land will be acquired and transferred at scale is probably the most contested aspect of South Africa's land reform. With evidence that the market-led approach is a key constraint, a new path forward is needed. This will have to involve a degree of compulsion on landowners to make available their land. While the market may have some role to play, the state needs to intervene on behalf of land claimants and other landless people. Expropriation will be needed to force restitution where landowners are unwilling to sell, to acquire land in areas where there is a great demand for it and

where landowners are not willing to sell, and also for its demonstration effect, to bring landowners to the negotiating table. This should be accompanied by just and equitable compensation, as provided for in the Constitution. Taking into account historical and other factors mentioned in the Constitution, this should be expected to be below market levels (RSA 1996: Section 25(3)).

### *Land use and post-transfer support*

The second challenge is that of land use and post-transfer support: the types of land use and models of agricultural production that will be promoted, and what post-transfer support will be available. Post-transfer support to beneficiaries has been a critical gap in land reform identified by two official reviews and three official Quality of Life surveys (Turner 1997; May & Roberts 2000). LRAD was introduced as a policy that would link land acquisition to support for agricultural development (MALA 2001). DLA has acknowledged the need to provide support beyond the land transfer stage, but it is often beyond the capacity of project officers to perform this function. Provincial departments of agriculture, the Land Bank, the National Development Agency and local government are not resourced to provide adequate agricultural support to land reform beneficiaries. This has resulted in ad hoc post-transfer interventions by different agencies and large-scale underutilisation of land.

Problems of alignment between Land Affairs and Agriculture also explain in part the chronic failure to provide adequate support to enable beneficiaries to derive substantial benefits. The separation of the two departments and their policy and operational frameworks has resulted in a failure to budget for post-transfer support at a provincial level. The introduction of a Comprehensive Agricultural Support Programme in 2004 was the first time that capital budgets have been earmarked for this purpose. However, direct state support for production in a land reform context is running counter to larger historical shifts – specifically deregulation of agriculture and liberalisation of markets. While individual projects may or may not receive support, most of the financial, marketing and agricultural extension systems designed to subsidise the agricultural sector have been dismantled. This means that the economic climate for new African farmers is hostile, making the prospects of a successful smallholder farming sector recede. Amidst widespread calls for proactive acquisition of land, there was little discussion at the Land Summit

about the relationship between land and agricultural policy, whether a more radical land reform programme might imply an alternative vision for the future of the agricultural sector, and what this might look like.

### *Budgets*

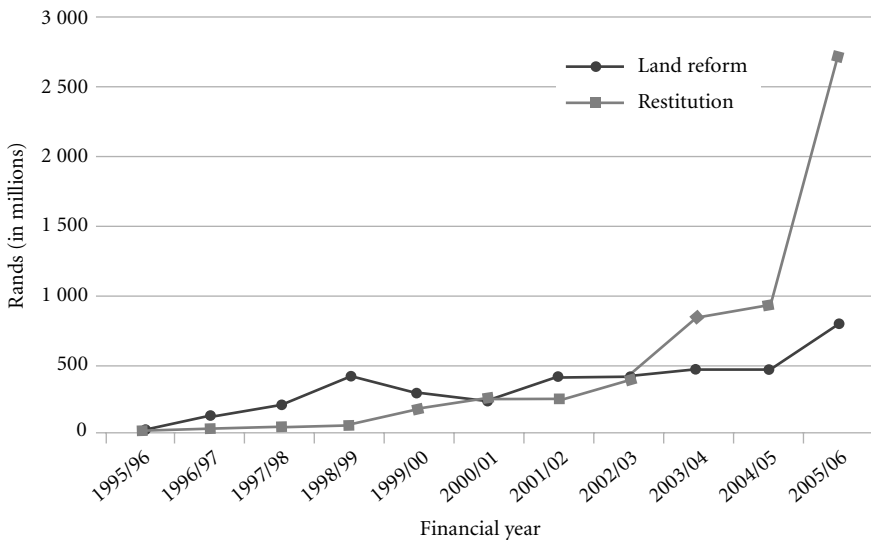
The third challenge arises from the budgetary realities that will now determine the pace and scale of reform. Land reform and restitution budgets have increased substantially but exceeded 0.5 per cent of the national Budget for the first time only in the 2005/06 financial year (National Treasury 2005: 712). Over the previous four years, provincial allocations to fund land reform were overcommitted, with the result that new projects could not be approved in some provinces. By the start of 2004, the DLA confirmed that there was a backlog of more than R500 million of approved projects 'on hold' because there were no funds to transfer. This means that budgets have become a key constraint on the programme, and demonstrates the difficulties of attempting to buy out white privilege in a context of fiscal restraint.

However, in line with other shifts in social spending following the 2004 elections, increased funds were injected into all aspects of the land reform programme. Funds for the restitution programme and, to a lesser extent, also for 'land reform' (the budget for land redistribution and tenure reform), rose sharply in the 2005/06 Budget. Total funds for restitution rose to R2.7 billion from R933 million in the previous year, while the land reform budget rose from R474 million to R770 million (National Treasury 2005: 712). The divergence between the two programmes – and the rise in restitution funding – is even starker when looking at the capital funds available for land purchase (see Figure 4.3).

While welcome, it remains doubtful that this substantial boost to land reform will be sufficient to bring the programme on track. What is needed depends substantially on how land is to be acquired. If market prices are to be paid, the programme will need to account for the rapidly rising market price of land. The market value of commercial agricultural land was approximately R57 billion in 2002 (NDA 2004: 84). Regarding restitution, if settled claims are indicative, then the outstanding rural claims alone should be expected to cost in the region of R20 billion for the land alone, to which must be added institutional costs to implement the projects. Post-transfer support and

operating costs for the programme must also be considered. The World Bank advocates a rule of thumb that land should constitute only a third of the total cost of market-led land reform, with two-thirds of the funds being dedicated to post-transfer support and operating costs.

**Figure 4.3** Land reform and restitution budgets 1995/96 to 2005/06 (not inflation adjusted)



Source: National Treasury (2005)

These figures must prompt us to consider, first, whether South Africa can afford the current paradigm, and, second, whether there is political support to dedicate the requisite resources. Even if non-market methods of acquiring land are pursued, and below-market compensation given to owners, and even if the cost of reform can be partially offset against resource commitments from landowners and agribusiness, further increases in public funding will be needed. The extent of investment of public funds required for land reform to succeed underscores the need to find appropriate land use models, and to monitor the impact of the programme.

## *Conclusion*

This review of progress and problems in South Africa's land reform paints a disconcerting picture. While an impressive range of laws and policies is in place, implementing institutions have been established and staffed, and land has been transferred, the change that has been wrought has been limited in its extent and also in its impact on social and economic relations. The deeply etched racial and class divides in the countryside persist. What does this mean for the land question?

There remains the same land question as was faced in 1994, but we are not in the same position to confront it. We may have the benefit of a decade of experience with implementation and innovation, like the drive towards decentralisation and emerging social movements of poor people articulating their own needs and demands. However, it may also be that a window of opportunity to push for more radical change has passed. As argued by Andile Mngxitama (2004), the current modest land reform programme justifies the continuation of structural inequality. Its changing discourse justifies maintaining the agrarian structure intact, as black economic empowerment emerges as an organising concept to describe and guide – and mobilise support from the private sector for – land reform.

Agrarian reform, though, by restructuring the agricultural economy, is key to translating land reform into economic development. However, South Africa's land reform programme has advanced largely in isolation from other interventions into the rural and agricultural economies. To the extent that there are elements of agrarian reform underway, these include agricultural policy to promote new entrants, reforms to farm labour and the provision of post-settlement agricultural support in the form of training as well as infrastructure and credit. However, these have been limited in their scale and impact thus far, and agricultural deregulation policies have created a particularly hostile economic environment for new farmers, making the prospects of success slim for poor people, women and farm workers who are able to access the programme.

Aspects of agrarian reform that have not been pursued are spatially focused land reform planning, extension and marketing support for small-scale and resource-poor producers, and intervention in land and commodity markets and in the size distribution of landholdings. A core challenge now facing

the programme is the need for the state to intervene to make suitable land available to meet local needs, rather than relying wholly on land markets and the willingness of current owners to sell. To advance a wider agrarian reform, there is now a need for convergence and joint policy development across the areas of land affairs, agriculture, rural development and local government.

The objectives and vision informing land reform in South Africa have changed substantially over the past decade. The emphasis has shifted from a major restructuring of agriculture and provision of land for settlement to a limited programme of farmer settlement. The land redistribution programme has discarded its pro-poor provisions and now in practice favours those with their own resources to invest. Emerging African commercial farmers now compete with the mass of the rural poor for preferential access to land reform benefits. While the programme has made significant progress in some areas, beneath the rhetoric of prioritising the disadvantaged, the poor, women, farm workers, the youth and the disabled, the question of who should benefit from land reform remains hotly debated. There also remains the challenge of integrating land reform with agricultural policy, rural development and local economic development, and so locating the redistribution of land and land rights at the centre of a wider process of pro-poor agrarian reform.

### Notes

- 1 Although this graph reflects official data released in July 2005, the total is substantially less than the total reported in September 2004 and cited earlier. This appears to be the result of anomalies in data management.
- 2 Thozamile Gwanya, Chief Land Claims Commissioner, telephonic interview on 16 August 2004.
- 3 Thozamile Gwanya, Chief Land Claims Commissioner, telephonic interview on 16 August 2004.

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# 5 *Land redistribution in South Africa: the property clause revisited*<sup>1</sup>

Lungisile Ntsebeza

## *Introduction*

The pace of land reform in South Africa is undeniably slow. At the People's Tribunal on Landlessness which was organised by the Trust for Community Outreach and Education in December 2003, the then deputy director-general (now director-general) of the Department of Land Affairs, Glen Thomas, after listening to some witnesses describe the problems they had encountered in their attempts to access land through the land reform programme, admitted that 'I understand perfectly their frustration. I think sometimes it is justifiable...there are very difficult issues that we have to deal with.'<sup>2</sup> Within a year after the land tribunal, in their Red October 2004 campaign, the South African Communist Party (SACP) – an alliance partner with the ruling African National Congress (ANC) and the labour federation, the Congress of South African Trade Unions – made similar pronouncements about the slow pace of land reform in South Africa. The theme of the 2004 campaign was, 'Mawubuye Umhlaba!<sup>3</sup> Land! Jobs! Food!' Within this context, the secretary general of the SACP, Blade Nzimande, is reported as having threatened: 'We will march to the departments of Agriculture, Land Affairs and the Reserve Bank in support for accelerated land reform' (*Umsebenzi* October 2004: 2). Most recently, the Department of Land Affairs organised a well-represented Land Summit in Johannesburg in July 2005, where the majority of participants expressed their frustration with the slow pace of land reform in South Africa.

However, while there may be general acceptance even from government officials and alliance partners of the ANC that the South African land reform programme is not occurring fast enough, there is no agreement on the reasons. My contribution will survey some of the reasons advanced by government and critics, in particular the critics' argument that the property clause in the Constitution is the main obstacle to large-scale land redistribution in

South Africa. As will become clear, this is not the first time concerns on the entrenchment of the property clause in the Constitution have been articulated. The matter received some degree of discussion during the period of political negotiations in the early 1990s, a process which led to the initial inclusion of the clause in the interim Constitution. I shall review these debates in order to provide a context for the current discussion. This will be followed by an analysis of the land reform programme since 1994 and an assessment of current debates on the reasons behind the slow delivery. These debates, it must be added, are by and large part of the wider evaluation of South Africa's performance ten years after the introduction of democracy in 1994.

The central question that this chapter seeks to address is whether it is possible to embark on a comprehensive land redistribution programme while recognising and entrenching land rights acquired through colonialism and apartheid, as the property clause does. In particular, the chapter argues that there is a fundamental contradiction in the South African Constitution's commitment to fundamental land redistribution to the dispossessed while at the same time protecting existing property rights. The two, I argue, cannot happen at the same time. This argument will take into account the wider context within which the land reform programme was formulated.

### *The property clause and the South African interim Constitution*

#### *The historical context*

It is important that the wider context within which the property clause debate is occurring should not be forgotten. A lot has been written and said about the broader historical context, but it is worth highlighting the following: starting from the 17<sup>th</sup> century, white settlers in South Africa, through a complex process of colonialism and land dispossession, ended up legally appropriating more than 90 per cent of the land, a process that was formalised with the passing of the notorious Natives Land Act of 1913. This Act confined the indigenous people to reserves in the remaining marginal portions of land. Despite increasing the size of land for African occupation in terms of the Land Laws of 1936, there was chronic shortage of land in these reserves. As a result, the indigenous people were gradually converted from once successful farmers prior to the discovery of minerals, particularly gold in the 1860s, to poorly paid wage labourers. Compared to other countries on the continent, the extent of land plunder in South Africa was extraordinary.

While colonialism and apartheid systematically undermined African agriculture, white farmers, on the other hand, benefited from substantial state subsidies. At the time of writing, there were about 50 000 white commercial farmers in South Africa, with varying degrees of concentration of landholding. These are the major beneficiaries of past apartheid policies and their continued control over the vast expanse of South African arable land lies at the heart of the enduring African exclusion and deprivation. Apart from the state subsidies, white capitalist agriculture has flourished as a result of the availability of a captured cheap African labour (see Mafeje 1988).

Although the liberation struggle in South Africa was not overtly fought around the land question, as was the case in Zimbabwe for example, there was always the expectation that unravelling centuries of land dispossession and oppression would be among the priorities of a democratic South Africa. Indeed, the ANC's Freedom Charter, drafted in the 1950s when decolonisation in Africa was on the agenda, had promised that '[t]he land shall be shared among those who work it' and will be 're-divided among those who work it, to banish famine and land hunger'.

But it is worth recalling the other reality in South Africa. The Freedom Charter was formulated at a time when the apartheid government was consolidating its rule, which was based on a bantustan strategy of retribalisation. Resistance to the bantustan strategy led to a vicious clampdown on political opposition, leading to the banning of political organisations such as the ANC and the Pan Africanist Congress (PAC). As countries in the rest of the African continent were celebrating their freedom from the yoke of colonialism from the late 1950s, the apartheid regime consolidated its bantustan strategy, taking the provisions of the Land Acts of 1913 and 1936 to their logical conclusion.

However, following a brief period of political lull in the late 1960s and early 1970s, resistance against apartheid re-emerged. Commentators often trace this reawakening to the strikes by African workers in Durban in the early 1970s. These strikes spread throughout the country. A few years thereafter, the students' uprisings in Soweto in 1976 fuelled political and economic opposition to apartheid. By the early 1980s, some commentators were concluding that South Africa was in a state of 'organic crisis' (Saul & Gelb 1981: 9). There was general agreement, even within the ruling class, that the apartheid experiment had failed.

An important point to bear in mind is that while it is possible to argue that the apartheid regime was under extreme pressure, particularly in the critical period of ‘ungovernability and insurrection’ in the mid-1980s, equally valid is the fact that the opposition forces were not strong enough to overthrow the apartheid machinery. By the late 1980s, there were clear signs that a negotiated settlement was on the cards. Already in 1986, big business argued strongly in favour of negotiations with the ANC. Their argument was that the ANC was not necessarily a communist organisation and that although ‘years of apartheid have caused many blacks to reject the economic as well as the political system’, South Africans should not ‘dare...allow the baby of free enterprise to be thrown out with the bathwater of apartheid’.<sup>4</sup> Trips to the headquarters of the ANC in Lusaka became a common feature of South African politics in the late 1980s. For their part, the National Party (NP) embarked on talks at the highest level with Nelson Mandela, at the time a political prisoner (see Sparks 1994).

It is these processes that ultimately led to the release of political prisoners and the unbanning of political organisations, paving the way for the political negotiations of the early 1990s and the first democratic elections in 1994. What the preceding shows is that none of the main parties involved in the political negotiation process, in particular the NP and the ANC, had a clear advantage, something that suggested that the negotiation process would involve tough bargaining and, as will become clear, the possibility of compromises.

#### *The land question and the property clause debate up to 1994*

Reflections on what a future democratic South Africa would look like emerged as early as the mid-1980s<sup>5</sup> (Sparks 1994). Although not occupying centre stage, the vital question of how the land question would be resolved became part of this discussion. This was raised in the context of discussing a Bill of Rights for a future South Africa. It is striking to note that two South African judges – and this is during the apartheid era – took a progressive stance on the question of property rights. They reasoned that a lasting resolution of the South African problem would be threatened if existing property rights were protected. For example, Judge Leon, a fairly conservative judge who sentenced an ANC guerrilla, Andrew Masondo, to death in 1985, warned, in the same year he sentenced Masondo, that a constitutional protection of property

rights could cause serious problems for the acceptance of the Bill of Rights (Chaskalson 1993). Judge Didcott, one of the more progressive judges during the apartheid period, expressed similar sentiments in 1988:

What a Bill of Rights cannot afford to do here...is to protect private property with such zeal that it entrenches privilege. A major problem which any future South African government is bound to face will be the problem of poverty, of its alleviation and of the need for the country's wealth to be shared more equitably... Should a Bill of Rights obstruct the government of the day when that direction is taken, should it make the urgent task of social or economic reform impossible or difficult to undertake, we shall have on our hands a crisis of the first order, endangering the Bill of Rights as a whole and the survival of constitutional government itself. (quoted in Chaskalson 1993: 73–74)

The two judges seem to have perfectly understood that transformation in terms of property rights and redressing the imbalances caused by colonialism and apartheid were not likely to be possible if existing property rights were recognised and entrenched. It is not clear, though, what alternative measures they had in mind.

However, the issue of property rights appears to have been overtaken by other concerns when the negotiation process started in 1990. It received attention, according to Chaskalson, 'only in the last days...before the deadline for agreement' (1994: 131). When it was eventually discussed, there was a lot of controversy around the protection of property rights.

The ANC's initial position on property rights was similar to that of Judge Didcott's (mentioned earlier). This position was articulated in the ANC's Bill of Rights for a New South Africa. In terms reminiscent of the Freedom Charter, Article 12(1 & 2) unequivocally stated:

The land, the waters and the sky and all the natural assets which they contain, are the common heritage of the people of South Africa who are equally entitled to their enjoyment and responsible for their conservation. The system of property rights in relation to land shall take into account that it is the country's primary asset, the basis of life's necessities, and a finite resource.

The next section (13) of the ANC's Bill contained the following clauses, which are worth quoting in detail:

- (3) Property rights impose obligations and their exercise should not be in conflict with the public interest.
- (4) The taking of property shall only be permissible according to law and in the public interest, which shall include the achievement of the objectives of the Constitution.
- (5) Any such taking shall be subject to just compensation which shall be determined by establishing an equitable balance between public interest and the interest of those affected.
- (7) Legislation on economic matters shall be guided by the principle of encouraging collaboration between the public, private, co-operative, communal and small-scale family sectors with a view to reducing inequality, promoting growth and providing goods and services for the whole population.
- (8) The above provisions shall not be interpreted as impeding legislation such as might be deemed necessary in a democratic society with a mixed economy which may be adopted with a view to providing for the regulation or control of property or for its use or acquisition by public or parastatal authorities in accordance with the general interest, or which is aimed at preserving the environment, regulating or curtailing cartels or monopolies or securing the payment of taxes or other contributions or penalties. (ANC 1993)

Once again, the influence of the Freedom Charter seems pervasive in the preceding provisions. The drafters of the ANC Bill were still cherishing the possibility of 'a democratic society with a mixed economy'. This presumably entailed that the economy would be guided by capitalist and socialist principles. However, how the two systems would coexist was not clear. What seems clear, though, was that the ANC position was not opposed to the inclusion of the property clause in the Constitution. Chaskalson's (1995) reading was that the land and property clauses of the ANC Bill were conceived, not as a device to protect the title of existing property owners, but rather to facilitate a legislative programme of land restoration and rural restructuring. According to him, there was within the ANC 'a land lobby' which 'was particularly concerned about the implications of a constitutional property right for a programme of land restitution to assist



the victims of forced removals' (1995: 224). It is important to note that the issue of forced removals received a great deal of attention and drew in a number of activists in the 1980s in particular. It led to the production of a report consisting of five volumes by the Surplus People Project in 1983. Apart from the report, the issue of forced removals was instrumental in the establishment of a number of non-governmental organisations (NGOs) which were later coordinated under the auspices of the National Land Committee (NLC). Although Chaskalson does not spell out the composition of the ANC 'land lobby', it would not be unreasonable to assume that members of the NLC had an influence.

For the NP, the other main party in the political negotiation process, the inclusion of the property clause in the Constitution and, crucially, the protection of existing property rights, were critical. They were intent on ensuring that the property of existing white owners would not be jeopardised in a future democratic dispensation (Chaskalson 1994, 1995). In the end, the NP won the struggle to have the property clause entrenched in the interim Constitution, with all the implications for recognising existing rights.<sup>6</sup>

Once the ANC recognised that they had lost the debate, their two main objectives were, first, to ensure that the property clause would not 'frustrate a programme of restitution of land to the victims of forced removals under apartheid' and, second, to see to it that the future democratic state had 'the power to regulate property without incurring an obligation to compensate owners whose property rights were infringed in the process' (Chaskalson 1995: 229). The ANC, it appears, was able to achieve its objectives largely as a result of what Chaskalson calls 'the strange proceedings of the Ad Hoc Committee on Fundamental Rights' (1995: 229) made up of Halton Cheadle and Penuell Maduna representing the SACP and ANC respectively, Chief Gwadiiso of the Congress of Traditional Leaders of South Africa, Sheila Camerer of the NP, Tony Leon of the Democratic Party and Godfrey Mothibe of the Bophuthatswana government. The committee was supposed to resolve disputes on fundamental rights and held its first meeting in August 1993. As Chaskalson puts it:

[N]one of the committee members was chosen for any particular expertise in legal issues relating to land and property. The result was that the committee spent a great deal of time on land and property issues which were peripheral, while the central issues were resolved without much debate. Because the ANC member of the commission had a clearer sense of how to relate their objectives to the wording

of the clause than their National Party counterparts, these central issues tended to be resolved in favour of the ANC. (1995: 230)

One of the 'central issues' that is pertinent for our purposes is what Chaskalson refers to as the willingness of the NP to compromise on 'the principle that compensation for expropriation of property would not necessarily be tied to market value' (1995: 232). Chaskalson's understanding in this regard was that the property clause 'would not obstruct the operation of the restoration clauses because it allowed for payment less than market value compensation in appropriate cases of restoration' (Chaskalson 1995: 232). The issue of compensation, and the role of the market in particular, remains, as will be clear, one of the contentious issues in current debates on the slow pace of land reform in South Africa.

It is not clear why the NP agreed to a clause that stated that compensation for expropriated land would not necessarily be at market value. It is also not clear what the NP formula for determining the price of land would entail. But it is important to note that, for its part, the Chamber of Mines, not surprisingly, was perturbed by this development. The Chamber had argued that 'the right of an expropriatee to a market-related compensation determined by the courts should be expressly recognised' (quoted in Chaskalson 1995: 233). The Chief Justice raised another concern. Anticipating that these matters would somehow be referred to the courts, the Chief Justice argued that 'this sub-clause' would 'cause serious problems of interpretation and application' (quoted in Chaskalson 1995: 233). Cheadle, representing the SACP, was vague in his formulation. He pushed for a clause that would provide for 'just and equitable compensation', without clarifying what just and equitable compensation would be. Linked to the question of compensation for expropriated land was the concern whether the property clause would not 'place any obligation on the state to compensate property owners whose rights were interfered with by legislative schemes to regulate the exercise of property rights' (Chaskalson 1995: 234).

In the final analysis, an agreement was reached during a meeting on 25 and 26 October 1993, resulting in the inclusion of the property clause (Section 28) in the interim Constitution. The section reads:

1. Every person shall have the right to acquire and hold rights in property and, to the extent that the nature of the rights permits, to dispose of such rights.

2. No deprivation of any rights in property shall be permitted otherwise than in accordance with a law.
3. Where any rights in property are expropriated pursuant to a law referred to in subsection (2), such expropriation shall be permissible for public purposes only and shall be subject to the payment of agreed compensation or, failing agreement, to the payment of such compensation and within such period as may be determined by a court of law as just and equitable, taking into account all relevant factors, including, in the case of the determination of compensation, the use to which the property is being put, the history of its acquisition, its market value, the value of the investment in it by those affected and the interests of those affected. (RSA 1993)

It is widely accepted that Section 28 represented a compromise between the ANC and NP positions. There is a fundamental tension that goes through this section arising out of a constitutional protection of existing property rights while at the same time showing a commitment to expropriate land ‘for public purpose’. Subsection 1 clearly protects existing property rights and those who have the resources to ‘acquire’ and therefore buy property, while subsection 3 opens a loophole for the expropriation of land with compensation.

Chaskalson’s interpretation of these sub-clauses is interesting and, with hindsight, optimistic. According to him, Section 28(2) read with Section 28(3) ‘set up a distinction between *deprivation* of rights in property and *expropriation* of rights in property. The former was to be performed “in accordance with law”’ (1995: 236) while for expropriation there were two added requirements: ‘the expropriation had to be performed pursuant to a public purpose and had to be followed by the payment of compensation’ (1995: 236). The ANC, according to Chaskalson, understood the inclusion of Section 28(2) to ‘mean that in the absence of an expropriation, compensation need not be paid to a party deprived of property rights by state action’ (1995: 236). Apart from being optimistic, I find the interpretation that property could be confiscated without compensation in the circumstances of the political negotiation process in the early 1990s surprising. This matter needs to be pursued and deserves more research.

Chaskalson’s optimism seems to have been based on his understanding and interpretation of the compromise reached in the negotiations. Although

agreeing that the wording of Section 28 'is not always clear', he imagined that the courts 'would do well to adopt a purposive approach' in interpreting this section, bearing 'in mind the compromise which the section' sought to achieve. Drawing from comparative legal history, Chaskalson concluded that if courts were 'overzealous in their protection of property rights...the potential for constitutional conflict between court and state will be substantial' (1994: 139).

Additionally, although the political negotiation process, and the particular moment this took place – namely, after the collapse of Soviet communism and the triumph of capitalism – presented a telling challenge to a radical agenda in South Africa, there was still optimism that some of the gains made in the 1980s would not be lost. A typical gain that had been made with regard to the land question, for example, was the fact that some white farmers, including those in the South African Agricultural Union, had come to accept that negotiations with African land claimants could mean that the latter would gain ownership of a portion of the farmers' land as part of a wider process of redress (Chaskalson 1993). In short, some white farmers had, by the early 1990s, come to accept that, for the sake of stability, they would have to part with portions of 'their' land for transfer to the historically dispossessed. From my personal recollection of working on land occupations in the Queenstown area of the Eastern Cape in the mid-1990s, the question of buying and selling land was hardly discussed: a significant amount of land had been grabbed and occupied by land-hungry black South Africans (Wotshela 2001). There was, behind these land occupations, the conviction by the historically dispossessed and their allies that existing white property rights were illegitimate. Some white farmers were beginning to accept that they would have to share land with black South Africans.

The question that needs to be asked is why, despite these favourable conditions on the ground, the property clause was entrenched in the interim Constitution. One possible explanation can be found in my preceding analysis, in particular the argument that the NP wisely opted for a political negotiation process from a position of relative strength in the sense that they had not been defeated on the battlefield. It was thus possible for the NP to squeeze some concessions from the ANC. Apart from this, analysts such as Marais (1998) would argue that the ANC and its alliance partners were often divided on what a future democratic government under the ANC would look like. As a 'broad

church' the membership of the ANC included people from a broad political spectrum, from conservative capitalist-inclined members to communists. The tension in Section 28 could also be interpreted as a compromise between the conservatives and the radicals within the ANC and its alliance partners.

### *The final Constitution, the land reform programme and the property clause*

As the name suggests, the interim Constitution was a transition measure leading to the final Constitution. The latter was adopted in 1996. As with the interim Constitution, the property clause was entrenched in the final Constitution. In this document, the property clause is under Section 25 and the relevant subsections read as follows:

- (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
- (2) Property may be expropriated only in terms of law of general application –
  - (a) for a public purpose or in the public interest; and
  - (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
- (3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including –
  - (a) the current use of the property;
  - (b) the history of the acquisition and use of the property;
  - (c) the market value of the property;
  - (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
  - (e) the purpose of the expropriation. (RSA 1996)

Subsection 5 implores the state to take 'reasonable legislative and other measures within its available resources' to create conducive conditions for 'citizens to gain access to land on an equitable basis'. Other subsections

address, amongst other things, questions of security of tenure and land restitution. All in all, the South African Constitution provides the framework for land policy in South Africa. This policy is based on three components of the government's land reform programme: land redistribution (to enable equitable access to land), land tenure reform (to eliminate tenure insecurity) and land restitution (to compensate for land dispossession).

As can be seen, the final Constitution essentially reinforced and refined what was already contained in the interim Constitution: protection of the existing property rights of landowners, the vast majority of whom are white, while at the same time making a commitment to redistributing land to the dispossessed majority. The main difference seems to be that while the interim Constitution allowed for expropriation only for public purposes, the final Constitution expanded this to include public interest. The issue of expropriating land only for public purposes raises the question of how to classify land expropriated for land reform purposes. It can be argued, though, that land expropriated for land reform purposes is not for public purposes given that it is transferred to the historically dispossessed. On this point, Chaskalson correctly argued that given that 'any substantial land reform programme is likely to depend on expropriation...land reform could be rendered "constitutionally impossible"' (1994: 136–137). By expanding expropriation to public interest, the possibility of expropriating land for land redistribution purposes existed.

A question may arise as to how to interpret Section 25(1) of the Constitution. What meaning should be attached to the notion that 'no law may permit arbitrary deprivation of property'? What amounts to 'arbitrary deprivation of property'? In this regard, it is worth recalling the warning of Judge Didcott cited at the beginning of this chapter. The judge cautioned that what a Bill of Rights 'cannot afford to do...(was) to protect private property with such zeal that it entrenches privilege' and makes it, amongst others, difficult 'for the country's wealth to be shared more equitably'. In other words, can this clause be interpreted to mean, following Judge Didcott, that it obstructs the government from 'the urgent task of social or economic reform', creating a situation where we have 'on our hands a crisis of the first order, endangering the Bill of Rights as a whole and the survival of constitutional government itself' (quoted in Chaskalson 1993: 73–74)? To attempt to respond to these questions, let us look at developments since the introduction of democracy in South Africa.

### *Slow delivery and the property clause*

As pointed out from the outset, except among hardboiled party loyalists, there is wide acceptance today that the pace of land reform in South Africa is painfully slow. I shall not in this chapter assess the land reform programme in the first ten years of South Africa's democracy. This is adequately covered in Hall's chapter in particular, and touched upon in the introduction and some of the other chapters. Mine is only a reminder that at the end of the first ten years of democracy in South Africa in 1994, a mere 3 per cent of the land had been transferred to African hands.

Various reasons have been offered in attempts to explain the slow delivery in land reform. The bone of contention in current debates, it seems, is the interpretation of Section 25 of the Constitution. There seem to be broadly two streams to the debate. On the one hand, there are those who argue that the fundamentals in terms of policy are in place. These commentators would argue that what is now missing is commitment from the government to ensure that the policies are implemented. This allegation is often couched in terms of a lack of political will on the part of the ANC-led government. Others analysts, on the other hand, would argue that the problem is with policy, in particular the entrenchment of the property clause in the Constitution as well as the endorsement in policy of the 'willing seller, willing buyer' principle. Let us consider each of these arguments in some detail.

Before the Land Summit organised by the Department of Land Affairs in July 2005, government officials were the most fervent supporters of the claim that the fundamental were in place and that what was needed was the implementation of policy. The clearest public expression of this position was in the form of testimonies by Glen Thomas and Manie Schoeman, who were the government representatives at the Land Tribunal held in Port Elizabeth in December 2003. Both claimed that they did not have any problems with policy, including the notorious 'willing seller, willing buyer' condition. The issue, according to Thomas, was 'whether government has sufficient resources to buy land when there is a willing seller at a price at which the willing seller wants to sell the land' (see endnote 2). He was adamant that the 'land market is there. There's no scarcity of land that could be bought, but the question is at what cost, at what price? That's the point'.

When the chairperson of the Land Tribunal wanted to know how Thomas would respond to concerns raised by witnesses that the key obstacle was policy – that, in the words of the chairperson, ‘it’s not so much the scarcity of resources, but the commitment to the principle of “willing buyer, willing-seller”’ – Thomas was ambivalent: ‘What we can’t do is to confiscate, because by confiscating we shall be depriving certain people of their rights as reflected in the Constitution.’ He conceded that ‘there is a perception – justifiably – that the “willing buyer, willing seller” approach is problematic’. However, having said this, he was quick to point out that ‘government is also constrained’ and it ‘cannot be government itself that starts to violate the Constitution’.

If Thomas was at times ambivalent in his position regarding the adequacy of existing policy, his fellow government representative, Manie Schoeman, who defected from the NP to the ANC, was forthright in his unwavering support for government policy. Unlike Thomas, he was less inclined to opening discussions on the possibility of making some constitutional amendments, including revisiting the property clause. Schoeman preferred to restrict himself to the present policy of the ‘ruling party’ which endorses the property clause ‘as it is’. Although it could change, he thought that ‘the guarantee of ownership of property is also fundamental to a democracy’. However, although he thought that the 1913 cut-off date was ‘done in much wisdom in the interest of reconciliation’, he conceded that ‘it doesn’t take away the obligation from the whites in this country to acknowledge that they acquired property or their forefathers did in an irregular basis and that we don’t have an obligation to rectify that process’. Schoeman did not elaborate on what he meant by rectifying the process, given that he stood by his position that existing policies were perfect.

A more nuanced and coherent version of the preceding argument has recently been made by Ruth Hall (2004).<sup>7</sup> She does not query the fact that Section 25(1) protects existing property rights. Her point is that although the land reform policy is based on a ‘willing seller, willing buyer’ condition, the state can expropriate land. She argues that a far-reaching land reform is possible within the existing constitutional framework. Hall contends that the protection of existing property rights should be balanced against ‘an injunction towards transformation’ (2004: 6). According to her, ‘While protecting rights, the constitution also explicitly empowers the state to expropriate property and specifies that property may be expropriated in the public interest,



including “the nation’s commitment to land reform” (2004: 6). Expropriation as conceived in post-1994 South Africa, Hall reminds us, is not limited to instances of ‘public purposes’ such as the building of public infrastructure, but can now apply to the transfer of property from one private owner to another. In other words, Hall’s overall argument is that expropriation powers ‘have been largely unused’ (2004: 7), applied in only two restitution cases so far. This makes her conclude that there is ‘room for manoeuvre’ and that the call for legal and constitutional amendment ‘seems misplaced. Constitutional amendment is not the immediate challenge since the constraint is a political rather than legal one’ (2004: 7).

Hall seems to make a distinction between the property clause in the Constitution and the ‘willing seller, willing buyer’ condition in land reform policy. While she does not have any problem with the property clause, given her argument that although existing property is protected there is also the provision for expropriation, she seems worried that expropriation powers are weakened by the government’s adoption of the World Bank imposed ‘willing buyer, willing seller’ policy as a guide to land reform.

In many ways, Hall was responding to arguments raised by Hendricks and Ntsebeza (2000) and Hendricks (2004). The main argument in these writings is that the provisions of Section 25 in the Constitution are contradictory in the sense that the Constitution protects existing property rights, while at the same time making a commitment to redistributing land to the dispossessed majority. The two objectives, the argument goes, cannot be achieved at the same time simply because the bulk of land outside the former bantustans is under private ownership and consequently safeguarded by the Constitution. In this regard, a declaration that land will be made available to Africans is rendered void for the simple reason that whites privately own most land. This tension was also captured by the acting chairperson of the Land Tribunal, Advocate Dumisa Ntsebeza. In his closing remarks, he averred:

It does appear that there may well be a case here in the Constitution, which cries for an argument as to whether we don’t have within the same Constitution competing rights. And if we have those competing rights the question will arise, which of those rights must take precedence. That will probably be one of the remedies that the claimants in this case want to look at. (see endnote 2)

The property clause in the Constitution has prompted Hendricks (2004) to ask the question: Does the South African Constitution justify colonial land theft?

Hall (2004), though, has a point in challenging Hendricks and Ntsebeza on the property clause, in particular the fact that we are silent on the expropriation clause in the Constitution. We have never really addressed the vital issue raised by Hall regarding expropriation. I will in the pages that follow respond to this challenge.

As already stated, it is subsections 2 and 3 of Section 25 of the Constitution which deal with the question of expropriation. Important to remember here is that expropriation, as Thomas reminded those attending the Land Tribunal, 'has to be with compensation because without it, we are talking about confiscation'. This then raises the question of how compensation is determined. Subsection 3 of Section 25 of the Constitution is supposed to guide the determination of compensation. However, it is widely accepted that this subsection is extremely vague. It merely states that 'the amount of compensation and the time and manner of payment must be just and equitable'. But what precisely counts as a 'just and equitable' dispensation is not clearly spelled out, except that the subsection goes on to state that compensation should reflect 'an equitable balance between the public interest and the interests of those affected'. In this respect, regard would be accorded to 'all relevant circumstances'. The pertinent ones for the purposes of this chapter include the history of the acquisition and use of the property; the market value of the property; and the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property.

In recognition of the vagueness of some of these provisions, a so-called 'Gildenhuys formula' is used to determine compensation. Justice Gildenhuys is a Land Claims Court judge who worked out a particular formula for the determination of compensation in cases involving expropriation in restitution cases. It is argued here that this formula could be used as a guide even in cases of land redistribution. In essence, the formula takes into account two of the circumstances mentioned in subsection 3 of Section 25 of the Constitution: the market value of the property and the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property. In a nutshell, the amount of compensation is the market value of the property minus the present value of past subsidies.

The question that confronts us is whether a consideration of the expropriation measure and the clarity that the Gildenhuis formula has brought undermines the argument, which I support, that the property clause is a major obstacle in fundamental land reform in South Africa. I contend that the expropriation clause does not affect my core conclusion about the property clause. In the first instance, the government has itself shown great reluctance to invoke the expropriation clause. Thomas conceded in his testimony that although the government has expropriated land for land reform purposes, this is not the norm. In his response to a question from the president of the PAC on the 2005 State of the Nation address, President Mbeki has also shown great reluctance in using expropriation as a mechanism to redistribute land. In recent times, particularly after the Land Summit, the Department of Land Affairs has given notice to expropriate a number of white-claimed farms in cases involving restitution. However, it remains to be seen whether the government will pursue these cases in the event, as is most likely, the farmers take the matter to court.

Second, even if the government were to pursue the issue of expropriation, there is still the question of compensation and how the price is determined. In this regard, the Gildenhuis formula could be a guide. We have seen that, according to the judge, the price of land should be determined by the market. Although the Gildenhuis formula takes into account the critical issue of subsidies, which should be deducted from the market price, the fact that compensation is based on the market price almost makes it impossible for the government to budget for land reform for the simple reason that the role of the state in determining the price is very limited. Thomas conceded in his testimony that the fact that landowners were inclined to inflate their prices was a potential problem, something that made Advocate Dumisa Ntsebeza, the chairperson of the Land Tribunal, observe in his concluding remarks: 'Because if one is going to use the market to establish the price of land in restitution cases, it means that government can also not afford to buy land and restore it to the claimants. It does appear that there is inadequate legislation to deal with questions of land restitution.' Hall also concedes that, in practice, white farmers 'determine when, where and at what price land will be made available' (2004: 6).

A point worth making in this regard is how the Gildenhuis formula has severely called into question what I earlier called Chaskalson's optimism regarding the compensation amount. Chaskalson argued that the amount of compensation

in cases of expropriation could be determined without necessarily taking the market value into account. The judgement by Gildenhuis has created a precedent that pours cold water over Chaskalson's optimistic position.

It is intriguing that the history of how colonialists acquired land in the first instance is not receiving prominence in the determination of compensation. In so far as reference is made to history, the suggestion is that this refers to the history of land acquisition by the affected landowner. Yet, there is the history of colonial conquest and land dispossession that lies at the heart of the land question in South Africa. It is hard to imagine how any process of land redistribution that downplays this history can hope to gain legitimacy, in particular in the eyes of those who were robbed of their land. Closely linked to this is that the naked exploitation of African labour which was central to the success of white commercial farming in South Africa is, interestingly, not considered to be one of the crucial factors that must be taken into account when the amount of compensation is calculated.

Lastly, some commentators and activists have attributed the seeming reluctance to expropriate land to a lack of political will on the part of the government. We have seen that, according to Hall, the 'immediate challenge' is not a legal but a political one. It is not clear what Hall means by the issue not being 'legal'. I would argue that the issue of compensation, even if the Gildenhuis formula is used, can end up in law courts if white farmers decide to contest the compensation amount. Nothing stops them from doing that. There are implications if the matter goes to court. First, legal processes can be frustratingly protracted. For example, if the owner does not accept a compensation offer, she or he has, in terms of Section 14(1) of the Expropriation Act, up to eight months to make an application to a court. The process can drag on after this. In addition, legal processes are very expensive. Both these factors are discouraging. Even though a legal contestation would involve rich farmers and the state, it is poor, landless Africans who end up suffering either through delays and/or in instances where court decisions favour white farmers. It is also worth bearing in mind that in a court case involving the state, it is in the end the taxpayers' money that is involved. I argue that the entrenchment of the property clause in the Constitution, in particular Section 25(1), puts farmers in a very strong position in situations where they contest expropriation and the determination of price.

### *Evaluation and conclusion*

A key challenge facing the post-1994 South African state is how to reverse the racial inequalities in land resulting from colonial conquest and the violent dispossession of indigenous people of their land. Closely linked to this is whether land redistribution within the current market-led approach will happen at a pace that will lend popular legitimacy to the state and encourage economic growth. There is clearly a huge gap between the political freedoms enshrined in the Bill of Rights and the economic realities of post-1994 South Africa. The land question is an important indicator in this regard. South Africa has joined the growing list of liberal capitalist democracies the world over where the political emancipatory project is not matched by any significant economic freedoms.

This chapter has attempted to explore the reasons behind the slow delivery in land reform. The chapter has argued that some of the key obstacles are the entrenchment of the property clause in the Constitution, in particular the protection of existing property rights, and the acceptance of the 'willing seller, willing buyer' policy. It has been argued in the chapter that the fact that there is provision for expropriation makes very little difference given the fact that the conditions attached to expropriation weigh heavily in favour of white farmers. The much-vaunted Gildenhuis formula, I have argued, strengthens the white farmers' position quite considerably in allowing the market to determine the amount of compensation.

However, as I draw this chapter to a close, it is important to address the hard question why the state has not acted and does not or seems very reluctant to act in a manner that may antagonise white commercial farmers. A standard response from some analysts, as we have seen in the case of Hall, suggests that the state does not have the political will to use its expropriation powers. Others, such as Marais, argue that part of the explanation is that the left within the Tripartite Alliance was defeated in the mid-1990s when there was a shift from the Reconstruction and Development Programme (RDP) to the Growth, Employment and Redistribution (GEAR) strategy. The important question, though, is why the left lost the battle.

A more substantial explanation, I would argue, cannot afford to ignore the global political and economic order that emerged after the collapse of Soviet communism from the late 1980s and how this affected the balance of

forces. The transition to democracy in South Africa in the early 1990s took place at a critical moment. Burawoy (2004) suggested in his Harold Wolpe Memorial Lecture that after the collapse of Soviet communism the ANC was left without a compass. Although not a communist or socialist organisation, the influence of communists in the ANC was palpable. Some of the clauses of the Freedom Charter bear testimony to this. However, at the time of the political negotiation process in the early 1990s, it must have been extremely difficult for the radical provisions of the Freedom Charter to be sustained. The international climate clearly favoured pro-capitalist forces. This could be one explanation for Marais' claim. Indeed, given the dominance of neo-liberal capitalism in the 1990s, the question should be asked: what would a left radical agenda be under such conditions?

It is common cause that when the ANC launched its election manifesto, the RDP, in 1994, there was a fundamental reversal of the Freedom Charter's call for the nationalisation of land. Although the RDP had redistributive elements, the document equally committed the ANC, albeit cautiously, to a market-led land reform programme. Two years thereafter, in 1996, an ANC-led government formally embraced conservative neo-liberal economic policies in the form of GEAR. With regard to the land reform programme and its implementation, not only did government commit itself to a market-led programme, but land reform policy in South Africa was also to be based on a 'willing seller, willing buyer' principle. This was despite the fact that this principle had by the mid-1990s proved to be a failure in, for example, neighbouring Zimbabwe. The justification for the shift is often couched in similar terms as elsewhere where these turnabouts have been made: 'there is no alternative' to global capitalism. Indeed, the shift to GEAR and the endorsement of the 'willing seller, willing buyer' condition must have dealt a serious blow to the 'land lobby' in the negotiation process which had hoped for at least a 'mixed economy' and radical reform in a democratic South Africa.

Writing at the height of the triumph of neo-liberalism, Ellen Wood (1995) reminded us that under capitalism, citizenship and democracy are limited in scope. Her argument is that 'representative (liberal) democracy' distanced itself from the ancient and literal meaning of the term (democracy), resulting in a shift in focus 'away from the active exercise of popular power to the passive enjoyment of constitutional and procedural safeguards and rights, and away from the collective power of subordinate classes to the privacy

and isolation of the individual citizen' (Wood 1995: 226–227). Hence the domination of the liberal principles: 'limited' government, civil liberties, toleration, the protection of a sphere of privacy against intrusion by the state, together with an emphasis on individuality, diversity and pluralism. Thus, by separating 'the economic and the political', or the transfer of certain 'political' powers to the 'economy' and 'civic society', capitalism has, according to Wood, created a seemingly anomalous situation where socio-economic inequality and exploitation coexist with civic freedom and equality. In her words:

The separation of civic status and class position in capitalist societies thus has two sides: on the one hand, the right of citizenship is not determined by socio-economic position – and in this sense, capitalism can coexist with formal democracy – on the other hand, civic equality does not directly affect class inequality, and formal democracy leaves class exploitation fundamentally intact. (Wood 1995: 201)

It is in this sense, she emphasises, that 'political equality in capitalist democracy not only coexists with socio-economic inequality but leaves it fundamentally intact' (Wood 1995: 213).

The implication of Wood's argument for South Africa is that by adopting GEAR, in particular, South Africa was putting itself in a position where political equality in the form of periodic elections was unlikely to translate into economic equality. It should be noted, though, that Wood's critique is directed against the system of capitalism, neo-liberal or otherwise. For her part, Gill Hart has lamented: 'GEAR sits uneasily astride the emancipatory promises of the liberation struggle, as well as the material hopes, aspirations, and rights of the large majority of South Africans' (2002: 7).

There seems little doubt that the ANC-led government is under tremendous pressure from both local and international capital to pursue a neo-liberal capitalist agenda in South Africa. For example, the Land Summit in July 2005 passed radical resolutions regarding land reform in South Africa. But it will be difficult for the Department of Land Affairs to deal with the resolutions of the Land Summit. While the overwhelming majority of participants agreed that extraordinary measures had to be taken to accelerate land delivery, including scrapping the 'willing seller, willing buyer' principle, a tiny minority of white commercial farming delegates belonging to the farmers' union AgriSA stood in

opposition to these resolutions. They threatened that if there was interference with the market, there would be consequences far beyond the imagination of those at the summit. They pointed to Zimbabwe as an example, giving a clear message that should the South African government defy the principles of neo-liberal capitalism, South Africans would find themselves in a position where this world boycotts them, as is the case in Zimbabwe. In a sense, white commercial farmers in South Africa, despite being a minority, are aware that they have an international capitalist system behind them.

The apparent strength of agribusiness contrasts sharply with the relative weakness of land-based organisations. These could apply pressure on the government 'from below'. It must be noted in the first place that the organised voice from below in the land sector was a group of land-based NGOs that established a network referred to as the NLC. These organisations had emerged during the apartheid period as a response to the forced removal of millions of Africans from white-designated areas.

Despite the fact that the ANC had adopted a market-led approach to land reform, there seems to have been a sense amongst many that the ANC government was seriously committed to redressing historical injustices and that this would somehow be done within the limits of neo-liberal capitalism. For its part, the government had in 1994 followed a World Bank recommendation that 30 per cent of white-claimed agricultural land be transferred during the first five years of democracy. As a result, some members resigned from their organisations and joined the Department of Land Affairs as government officials. Those remaining in the organisations took it upon themselves to support the department. The presumption, it seems, was that 'this is our government' and that the room to manoeuvre was quite wide.

The embarrassing and frustrating pace of land delivery, however, gave rise to discontent which fed into the formation of the Landless People's Movement (LPM) in 2001. The NLC played a crucial role in the establishment of the LPM. Events in Zimbabwe also helped to propel the formation of the LPM, as did connections with the Brazilian Landless Workers' Movement and La Via Campesina, an international movement of peasants.

The growth of a discontented landless people, supported by the NLC, was rather short-lived. By the end of 2003, the NLC and LPM were in disarray. Long-standing disputes within the NLC over support for the LPM intensified



in the period following the World Summit on Sustainable Development in 2002. By 2004, the NLC formally disbanded as a network, although its affiliates continue to exist, with some establishing an informal network. After the demise of the NLC, there came into existence, shortly before the Land Summit, an alliance of various movements under the acronym ALARM (Alliance of Land and Agrarian Reform Movements). Although committing itself to rural transformation and the poor in these areas, it is early days to say what the future holds for this alliance.

Whatever pressures the international situation dominated by a neo-liberal agenda exerts on the South African government, the overall context of land dispossession and land reform in this country should not be forgotten. The claims that dispossessed and poor South Africans are laying are legitimate. At the same time, there is no doubt that the market-led approach to land reform, including the protection of property rights in the Constitution and the 'willing buyer, willing seller' approach to land reform, will not unravel years of colonial and apartheid dispossession. There is a need to open up debate and discussion on these matters. The starting point in that debate should be whether a comprehensive land redistribution programme in South Africa can take place if it ignores colonial conquest, land dispossession and the fact that commercial farming triumphed as a result of the naked exploitation of African labour. Above all, the debate would have to engage with the fundamental proposition in this chapter, namely, that there is a contradiction between the protection of private property rights to land and a commitment to fundamental land redistribution. The debate would have to bring clarity to Section 25(1), particularly on what precisely constitutes 'arbitrary deprivation of property'. Indeed, South Africans should revisit the claim made in the ANC Bill in 1993 (see earlier) that 'land, the waters and the sky and all the natural assets which they contain, are the common heritage of the people of South Africa who are equally entitled to their enjoyment and responsible for their conservation'. The question here is whether land should be privately owned or not. Lastly, it is important, especially for the short term, to give clarity to the status of the so-called Gildenhuys formula with regard to the current South African law. To what extent can it be binding or influential to future cases of expropriation?

*Notes*

- 1 A much shorter version of this chapter was published in Alexander (2006). This version is published with the kind permission of the Centre for Civil Society.
- 2 The transcript of the Land Tribunal proceedings is available at the offices of the Trust for Community Outreach and Education in Mowbray, Cape Town.
- 3 This is an isiXhosa phrase for 'the land must return'.
- 4 This was often quoted in the 1980s, and the remarks, which appeared in the *Financial Times*, London, on 10 June 1986, were by Zach de Beer, the Chief Executive of Anglo-American.
- 5 As will be clear, this section draws heavily from the work of Chaskalson (1993, 1994, 1995). He is arguably the only analyst who has written extensively on the property clause in the interim Constitution.
- 6 For details of how this was achieved, see Chaskalson (1994, 1995).
- 7 A similar position was advanced by Edward Lahiff, a colleague of Hall in the Programme for Land and Agrarian Studies, University of the Western Cape, in his comments on an earlier version of this chapter, presented at a conference that was organised by the Harold Wolpe Trust in Cape Town in March 2004. However, I haven't seen any written expression or expansion of Lahiff's position.

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# 6 *Redistributive land reform: for what and for whom?*

Cherryl Walker

## *Introduction*

It is easy for participants at conferences and workshops to roll out a wish list of what land reform should achieve and whom it should target, one that seeks to cover all political bases – poverty reduction; justice; food security; rural transformation; economic growth; redress for the landless, the poor, women, the dispossessed and the previously disadvantaged.

Few would disagree that these are worthy objectives and worthy beneficiaries. But working at this level of abstract, feel-good generality does not advance our understanding of the actual contribution that land reform could make to improve, far less transform, the lives of these differently constituted and differently positioned categories of beneficiary. Nor does it sharpen our analysis of the scale of land reform that the state can realistically – as opposed to ideally – implement, and the weight that should attach to land reform compared to other state programmes (job creation, housing, health, education, welfare, conservation, etc.). Nor, if we agree that the state has to prioritise, does a wish list assist us in determining where it can best concentrate its land reform efforts and what the trade-offs and synergies between these different programmes could or should be. In insisting on all possible targets, we advance none.

How important is land reform in South Africa today? A full answer requires ranging over a number of issues and is beyond the scope of this chapter. A summary account, in my view, would look something like the following. Land continues to be linked to identity and citizenship in complex and shifting, situation-specific ways. Politically it carries a sometimes latent, currently more overt, yet always potent emotional and symbolic appeal in national debate about inequality and redress. At the local level it resonates powerfully

with those living on the margins, although the narrative of local-level loss and redress regularly encounters complications in the form of competing claims to land and contested outcomes. Economically and socially the importance of land is more difficult to compute. It is less of a priority than jobs for most South Africans, yet significant, in the absence of jobs, in contributing to what is now commonly described as the ‘multiple livelihood strategies’ of the poor. As a programme of government, land reform is probably most usefully but rather prosaically conceptualised as a host of targeted projects within a broader development programme, rather than as a grand storming and seizure of the heights of capitalist, racist, commercial agriculture.

What and who, then, should a redistributive land reform programme prioritise? Elsewhere I have argued more fully than is possible here for an unfashionably sober yet not inconsequential programme that could straddle these different currents:

Land reform...is overloaded with the claims of history and the twinned but incongruent imperatives of redress for the past and development for the future that that has bequeathed us. It is also hobbled by the constraints of the present, including not only the relative marginality of the rural areas politically and economically, but also the indifferent – uncooperative – natural environment in which it is to work its remedy. Popular expectations have been shaped by a ‘master narrative’ of quintessentially rural dispossession and restoration that, while not, broadly, untrue, is no longer directly relevant to today’s developmental challenges. It focuses too narrowly on the so-called ‘white’ countryside, underplays the importance of urban land reform and the former reserves, and under-estimates the contemporary challenges to agriculture. (Walker 2005a: 823)

This chapter draws on that work in sketching the outlines of an answer to the two questions posed in the title. It is written not as an academic exercise, but as a short, intentionally sharp debating piece about a contentious and defiantly complex set of policy choices.

It is structured in four sections. The first addresses the key questions of land reform for what and for whom and proposes five priority areas for the state’s land reform programme over the next five to ten years. The second addresses

the burning political question of the redistribution of commercial agricultural land from white to African ownership, which critics who regard this as the central challenge for land reform are likely to consider under-represented in my account. The third section revisits the issue of constraints, identifying a number of what I regard as non-programmatic limits to land reform. I conclude with a brief account of Cremin, a relatively successful land restitution project in KwaZulu-Natal that illustrates my general argument – which is not that redistributive land reform is unimportant, but that inflated expectations of its transformative potential in contemporary South Africa require tempering.

### *Priorities for a redistributive land reform programme*

As already suggested, in identifying priorities for the state I aim to operate within the realm of the achievable. This means starting with – and meeting – current constitutional commitments. I take the legitimacy of the post-apartheid state as given and the authority of the South African Constitution (Act 108 of 1996) as foundational to our new democracy.

There are three additional observations that inform my selection of priorities; I revisit them later. The first is that South Africa is no longer primarily an agrarian society, but the non-agrarian economy is failing dismally to absorb the unemployed as well as new work seekers, and this is unlikely to change in the near to medium future (Altman 2003), hence the potential importance of land for poor and marginalised people. The second is that redistributing land to the poor and the marginalised cannot, in itself, guarantee them significantly enhanced incomes, livelihoods or even a stronger sense of social well-being, nor (though this remains untested) can it guarantee social stability to the broader society. Land redistribution can make a contribution to economic development at both household and societal level, but this is not assured and one certainly cannot assume that it is a cure for deeply entrenched problems of poverty, inequality and social dislocation. The third premise is that limited ‘state capacity’ (that blandest of contemporary catchphrases) is not a temporary aberration, but an institutional reality knitted into the fabric of state operations, which will persist into the foreseeable future. If this is acknowledged, then its impact on state development programmes must be factored into the way in which these programmes are conceptualised, implementation planned, and alternatives posed.

With the preceding in mind, I propose five priorities for the state's redistributive land reform programme as we move into the second decade of democracy, each of which I expand on briefly:

1. The finalisation of the land restitution process instituted in terms of the Restitution of Land Rights Act (Act 22 of 1994);
2. An incremental programme of tenure reform for occupiers of communal land in the former bantustans;
3. Targeted land acquisition to support a range of rural development projects for selected groups of poor, landless or land-hungry households and individuals;
4. Targeted land acquisition in peri-urban areas, to support a range of settlement and development projects, also aimed primarily at poor households and individuals;
5. Within the above processes, special attention to securing and advancing the rights of vulnerable women.

The first two priorities are conventionally thought of as operating alongside – hence falling outside – ‘land redistribution’ as defined in the *White Paper on South African Land Policy* (DLA 1997). However, both restitution and tenure reform are integrally linked to the goal of a more egalitarian and sustainable distribution of resources that has underpinned land policy since 1994. Both involve the transfer of rights and control over resources, and hence are more usefully thought of as elements of the state's land redistribution programme rather than as separate programmes. They also involve major demands on state capacity over the next few years, which is another reason for including them in an analysis of current priorities for redistributive land reform. As the discussion on these issues should illustrate, it is time to consider holistically the objectives and achievements of the different sub-programmes of land reform to date, as overlapping and complementary components of a single endeavour. This makes possible new perspectives on old data, hence on strategic options for land reform, as I hope is illustrated more fully in the discussion that follows.

### *Land restitution*

Restitution for the victims of land dispossession and forced population removals since 1913 is enshrined in the Constitution, and legally, politically and morally that commitment needs to be honoured. To do so will involve

a major effort on the part of the state for some years to come, which will impact on what else the Department of Land Affairs (DLA) can undertake concurrently.

In this regard the constitutional cut-off date of 1913 can be seen as pragmatic but not unprincipled. Only if one regards history as something akin to a convenience store, stocked with a limited selection of items for contemporary consumption, can one contemplate applying the provisions of the restitution programme to land claims that hark back to the 19<sup>th</sup> century and before. The shifting socio-political dynamics, the layers of different land maps that lie in uneven strata beneath our contemporary land dispensation, the many changes to the nature and boundaries of 'historical' communities during and since the colonial era all confound such ambitions. In South Africa the history of settlement, conquest, collusion, alliance, dispossession, migration and tenure change before 1913 is simply too dense to be compatible with the promise of community-level redress proposed by the land restitution programme after 1994. The legacy of poverty and underdevelopment that is rooted in colonial land dispossessions before the Natives Land Act can best be addressed through other development strategies, including tenure reform in the former bantustans – which is, interestingly, the one area of land reform where the difficulties of defining community boundaries and recognising the many different interests in and overlapping claims to land are clearly acknowledged by both policy makers and their critics.

The promise of post-1913 restitution is itself a qualified one. The slipperiness of the official numbers for land claims lodged and settlements reached, as well as the complex challenges embedded in the settlement task, are by now well-established themes in the literature (see, for instance, Bohlin 2004; Hall 2004; Kepe 2004). Yet the scale of the land transfer that will finally result, and the extent to which redress for the victims of forced removals since 1913 will have been achieved, is not entirely clear (see Walker 2005b). Most speculation on this issue – for instance, a newspaper report stating that only 2 per cent of the victims of forced removals have lodged land claims (*This Day* 16.06.2004) – is based on a combination of faulty figures and incomplete information.<sup>1</sup> What we do know is that by March 2005, 854 444 hectares were recorded as transferred to land claimants (both urban and rural); that reportedly 7 803 rural claims remained to be settled at that time (CRLR 2005); and that there is the potential for significant transfers of land to claimants in certain provinces,



notably northern Limpopo and eastern Mpumalanga. In these two provinces, according to the Chief Land Claims Commissioner in January 2004, up to 50 per cent of land has been claimed. He also suggested then that up to 20 per cent of land nationally has been claimed (News24.com 2004).

Working with the categories of forced removals used by the Surplus People Project (SPP) to arrive at its widely cited estimate of upwards of 3.5 million people dispossessed between 1960 and 1983 (Platzky & Walker 1985: 10), one can tentatively suggest that by the time the restitution programme is finally wrapped up, its contribution to redress for the different types of apartheid-inspired removals will have been very uneven. Yet, given the very different types of community and land use involved, as well as the opportunities for alternative sources of compensation and redress for certain categories of victim of past dispossession and/or their descendants (for instance, housing and urban renewal programmes), it may be possible to argue that this unevenness is not altogether inconsistent with the promises of post-apartheid reconstruction.

Thus the major category of rural beneficiaries relative to original numbers dispossessed is likely to be that of former 'black spots' (African or mission-owned freehold properties falling outside those areas reserved for African occupation). According to the SPP, some 247 'black spot' farms were removed by 1983, covering in the region of 150 000 hectares, with a total population of approximately 475 000 individuals (adults and children, landowners and tenants) (Walker 2003a: 6, 8, 9). It is highly probable that most of these removals will be represented in the final tally of settled claims. The number of 'Group Areas' claims, in contrast, can already be seen as a small proportion of the total number of households moved in terms of this policy after 1951. Even if all the approximately 61 000 urban claims lodged with the Commission on Restitution of Land Rights (CRLR) are assumed to be 'Group Areas' claims (which they are not), this still represents less than half the total number of households – which lies somewhere between 150 000 and 200 000<sup>2</sup> – affected by the Group Areas Act. More pertinent to rural land reform, various non-governmental organisations (NGOs) have voiced concern at the administrative exclusion from the restitution process of the very large numbers of people who suffered relocation and loss of land rights under betterment planning within the bantustans. However, their exclusion from the restitution process does not preclude affected households who are still

living in the former bantustans from other equally appropriate forms of state-driven redress, including well-targeted rural development strategies, other land acquisition and redistribution projects, and tenure reform on communal land.

What we also know is that resolving the approximately 18 000 outstanding claims in the system as of February 2005 remains a formidable task, especially if the state is serious about linking restitution to economic opportunities for beneficiaries once land has been transferred and central government has withdrawn from the project. The CRLR estimated in 2004 that it required R13.5 billion to meet its objectives (Contact Trust 2004) and has also complained that it is seriously understaffed (CRLR 2004: 31). The presidential target of settling all restitution claims by the end of 2005 has recently been adjusted to a less unrealistic goal, March 2008, but even if corners are cut and figures finessed, achieving this remains a difficult task. Nor are such deadlines in the best interests of redistributive land reform in the longer term. If meeting this politically determined goal overrides all other objectives, we will end up in 2009 with numerous paper settlements and ill-prepared restitution projects and, even then, numerous unresolved claim-related issues still to be settled under some other guise.

#### *Tenure reform in the former bantustans*

Like restitution, security of tenure for residents of the former bantustans is a constitutional commitment. Arguably, the case for prioritising tenure reform in these areas is even more compelling from a broad poverty-reduction perspective. In the region of one-third of the population lives in these areas, which, as is well documented, are characterised by the most concentrated levels of poverty in the country, huge infrastructural backlogs and service needs, and widespread maladministration, including around land. Yet some of these areas have reasonable, even good, agricultural potential and, paradoxically on the face of it, not insignificant tracts of agricultural land in these areas are underutilised.

Most land in the former bantustans is state-owned, with the democratic state inheriting a system of nominal trusteeship, *de facto* neglect, from the apartheid state. Redefining this relationship, and determining the most suitable locus of land ownership and what the different possibilities for individuals, households, groups and tribes mean in practice have been among the most vexing policy

challenges the DLA has had to face since 1994. After years of wrestling with the complexities of drafting an Act that is constitutionally, politically, and practically acceptable, the department finally produced a controversial piece of legislation which was hurried through Parliament in late 2003/early 2004, and signed into law by President Mbeki in July 2004.

The Communal Land Rights Act (CLRA) has been severely criticised by a wide range of civil society organisations but welcomed by representatives of traditional leaders, who are accorded considerable power to continue exercising control over the allocation and administration of communal land, ownership of which will now vest nominally in ill-defined 'communities'. The actual date of implementation, as well as the eventual cost to the state, is clouded in uncertainty, as are the likely consequences and outcomes for potential beneficiaries. In early 2004 the DLA revised its estimate of the likely cost of implementation upwards to R500 million (*Natal Mercury* 28.01.2004) and produced an implementation work plan that can only be described as daunting in its scale (DLA 2004a). The enactment of the CLRA poses a major strategic challenge for those seriously concerned with the promotion of economic and social development in the former bantustans – whether to work with its provisions, or propose and push for amendments, or oppose its implementation altogether. Regardless of the choices that are made, the issue of tenure reform on communal land remains a huge challenge within a redistributive land reform programme committed to poverty reduction and sustainable development. There is no sturdy national consensus on how best to balance group and individual identities, rights and interests, nor what the most judicious accommodation between tradition (which in South Africa is inherently patriarchal) and equity might be.

Given the complexity of the terrain, it is surely critical for the state to ensure that the security of tenure of residents of communal areas is legally assured pending the cumbersome process of implementation and likely further revision of the CLRA. This implies explicit statutory recognition of and policy support for what are currently described as 'old order rights', those customary rights that vest, *de facto*, with current occupiers and users of land (including women), pending their formalisation through a rights-enquiry and registration process. Such steps could provide protection in law for those whose customary rights may be infringed before the implementation of the CLRA has run its course, as well as reduce the pressure on the state to roll out the CLRA everywhere

at once, which is clearly beyond its capacity. Provision should also be made for identifying vulnerable communal natural resource areas, such as forests, wetlands and coastal areas, that warrant urgent designation and state, rather than communal, protection against the very real threats of indiscriminate privatisation and alienation that are currently at work.

#### *Rural land acquisition for selected groups of households and individuals*

The third priority in my list corresponds more closely to what the state currently conceptualises as land redistribution, but differs from that in shifting the emphasis from the 'willing seller, willing buyer' model for land acquisition to a more active role for the state in identifying both the land to be redistributed and the beneficiaries to receive that land. What is proposed is that the state – including the local state – becomes proactive in acquiring land, both through the market and through the judicious application of its powers of expropriation, and that land be acquired for a range of development projects designed for different target groups. Thus the focus should not be on agricultural projects alone. Rather, the approach proposes delinking land reform from its current tight association with agricultural development and aligning it more closely with broader development strategies and municipal Integrated Development Planning objectives. The types of project that are possible here include small farmer settlement schemes, agri-villages, agricultural and also non-agricultural processing and production enterprises, land-based hospices, and children's villages – these to be developed on optimally located land, acquired strategically and proactively by the state to suit the different requirements of the different types of project.

This approach also implies a shift in emphasis from land transfer from white to African ownership as the primary goal of land redistribution to developmental outcomes as the more useful indicator of success or failure – a politically controversial repositioning of the programme which is discussed more fully later in the chapter.

#### *Peri-urban land acquisition*

The importance of peri-urban land reform – of the need to look at land reform in relation to urbanisation and urban development strategies – is slowly beginning to be recognised within the land reform sector. It could

be claimed that here the Landless People's Movement (LPM) has shown the way, although considerable thought is still needed on what a peri-urban land reform strategy should address and how that relates to and differs from the rural-focused policies that have dominated the debate until now. What is apparent is that policy development urgently needs to come to terms with the huge land, settlement and livelihood needs and potential opportunities within peri-urban and urban (including non-metropolitan) areas, where the bulk of South Africa's population (approaching 60 per cent) now resides. This is a very significant area of demand, with the potential for project development that could position poor people to straddle urban income and land-based food security opportunities better than they can now, while retaining access to the services and health and education infrastructure of urban areas.

### *Securing the land rights of vulnerable women*

Finally, in working on the latter, the state needs to pay more sustained attention than it has demonstrated in the past to its commitments to promoting gender equity and securing the rights of women (Walker 2003b). Major issues here concern the advancement of women's rights in communal, family and household land, as well as the recognition of women's right to participate on equal terms with men as individuals in land reform projects. It is important that the debate on women's land rights is not understood in terms of women-headed households only, or as a policy choice between individual or household land rights for women. Most poor women are living in households dominated or headed by men and their interests in the property resources of these households need recognition in land reform policy as well. (These points are developed further in Walker 2003b.)

### *Land reform and commercial agriculture*

The preceding list bears some resemblance to the policies of the past ten years, but there are significant departures – in particular, the idea that land reform be oriented to both agricultural and non-agricultural projects and that the state acquire land proactively; the importance given to peri-urban land reform; and the endorsement of state ownership of communal lands pending a more organic and locally driven process of tenure reform than is currently envisaged.

Missing from the stated set of priorities is a strong statement about land reform in support of the transformation – read deracialisation – of the historically constructed white countryside, which is inextricably entangled with policy towards the large-scale commercial agriculture sector. Deracialising commercial agriculture is an important objective, insofar as we agree on the need to uncouple the strong association between large-scale land ownership and racialised privilege in the countryside and retain a healthy (and sustainable) commercial agriculture sector to feed South Africa's towns and cities and, in the short to medium term at least, produce a surplus for export to the region as needed. However, I do not think that promoting a class of African large-scale commercial farmers should be a major priority for the state, and certainly not the primary focus of its land reform programme. Limited state funds and resources should be directed towards those most in need (which would include small-scale 'emergent' farmers) rather than to those African entrepreneurs who are in a position to secure loans and private-sector support to enter the commercial agriculture sector independently of the state. On the other hand, given South Africa's history, there is a case to be made for state involvement in facilitating the deracialisation of commercial agriculture, for instance through the provision of soft loans and guarantees, as well as in pressurising a notoriously conservative sector to support the entry of African farmers far more emphatically than it has done to date (in effect to realise where its own best interests lie). We should, however, expect that a non-racial commercial farming sector is likely to be almost as hostile to a more radical redistributive land reform programme as the previously all-white sector has been.

My main concern in this section, however, is to argue that the target that the government has set for land reform, that of transferring 30 per cent of commercial farmland to African ownership by 2015, is inadequate as an indicator of success if sustainable economic development and the reduction of rural poverty are the primary concerns. The inherent limitations of a redistributive land reform programme that is conceptualised primarily in terms of transforming the racial profile of the commercial farming sector (by overturning the monopoly of white farmers over ownership of the 68 per cent of South Africa's land that is classified as commercial farmland), are illustrated by the following sets of figures, which deserve more serious consideration in policy debates than they currently receive.

The first set deals with households – commercial farming and landless. There are currently in the region of 46 000 commercial farming units in South Africa, the great majority (but no longer the totality) of whom are owned by people who are classifiable as white (Walker 2005a: 809). One reasonable estimate of the level of landlessness in the former bantustans puts the number at 675 000 households (Aliber & Mokoena 2003: 336). Thus it is theoretically possible to replace all white commercial farmers with African landowners – eradicate entirely the white hegemony over non-reserve land of the past 90 years – and, even assuming this new African landowning class is drawn entirely from the landless, still end up reducing the pool of landless households in the bantustans by less than 10 per cent (46 000 households out of 675 000 landless households). In other words, if the only consideration shaping the transfer of land is that the recipient is classifiable as African, one could have a successful land redistribution programme that makes little or no impact on poverty reduction and the transformation of the agrarian economy.

The second set of figures deals with land area and location to make a similar point about current land reform targets. In the Northern Cape province there are today perhaps 6 000 commercial farmers (a little over 10 per cent of the national total), who together own just under 30 million hectares.<sup>3</sup> This is the largest block of commercial agricultural land in the country, but the least valuable from a farming and livelihood perspective, certainly the least suitable for intensive settlement and use and the least capitalised. Thirty million hectares is 25 per cent of the total land area of South Africa and about 36 per cent of total commercial agricultural land (which is approximately 82 million hectares). Thus – hypothetically – simply by directing all land reform resources towards replacing white farmers with African farmers in the Northern Cape, it would be possible for the DLA to exceed the current land reform target of 30 per cent of all agricultural land redistributed by 2015. However, it should be obvious that if this transaction were to be no more than a straight colour-coded swap, the impact, while not without social effect in the Northern Cape, would be negligible in terms of making substantial inroads on rural poverty and land hunger in that province, while leaving land issues in the rest of the country essentially untouched.

The Northern Cape example illustrates the limitations of measuring progress in South Africa's land reform policy simply in terms of the conventional but inadequate measure of racial inequality in land ownership nationally – i.e. the

shorthand of 87 per cent white/13 per cent African land – and the degree to which this equation has been changed. The aggregate amount of rural land in white ownership in South Africa is no longer the most significant measure of inequality and economic exclusion in an essentially non-agrarian society. For that one needs to look to non-agrarian patterns of wealth, property ownership and accumulation in the metropolitan areas, in Gauteng in particular.

A more useful way of understanding the strategic opportunities for land reform, as well as its limits, is to look at the distribution between white and African ownership of land and between commercial and communal agricultural land at a provincial level – and here a more complex distribution pattern prevails. In KwaZulu-Natal (the most populous province), for instance, only 44 per cent of the land area falls within the commercial agricultural sector, while former KwaZulu territories account for 36 per cent. Table 6.1 presents a set of provincial-level figures that illustrate the diversity of conditions across the country and hence the value of developing land reform policy and land reform targets that are attuned to each province.

Today the national debate on land reform takes place primarily at the level of overall targets for land transfer and broad transformation goals understood in terms of ‘race’. Speeding up the pace and scale at which land is transferred from white to African will not, however, resolve the underlying constraints on the implementation of sustainable projects – it may even exacerbate these. The local, project level of implementation requires attention to process in beneficiary identification, institutional development, planning and the provision of services, and probably more rather than less official time per project (meaning larger operating budgets) in order to work better. The national obsession with overall targets and total numbers works against stronger local institutions and appropriate development plans. In particular, if we are serious about bringing more women, especially more poor women, into the land reform programme – as national policy demands – then we have to pay more attention to facilitation and to investigating a menu of different, gendered options and outcomes than currently prevails.



Table 6.1 Land distribution, land reform and population by province

Province	Total land area		Population		Commercial agriculture			Communal areas ex-bantustan, SADI		Land reform 2004		
	Hectares (rounded)	% total RSA	% total RSA	% urban	Hectares (1996)	% total prov.	% total comm'l	Hectares	% total prov.	Restitution hectares (03/2004)	Redistrib. hectares (03/2004)	State land hectares (03/2004)
N. Cape	36 183 000	29.7	1.8	82.7	29 734 978	82.2	36.2	16 605	0.04	233 634		
E. Cape	16 958 000	13.9	14.3	38.8	10 327 660	60.9	12.6	4 821 077	28.4	28 338		
Free State	12 948 000	10.6	6.0	75.8	11 342 502	88.3	13.9	223 138	1.7	43 315		
W. Cape	12 937 000	10.6	10.0	90.4	9 766 969	75.5	11.9	0	0	3 100		
Limpopo	12 391 000	10.2	11.7	13.3	5 488 613	44.3	6.8	3 395 315	27.4	54 575		
North West	11 632 000	9.5	8.1	41.8	6 179 490	53.1	7.5	3 203 567	27.5	71 484		
KZN	9 210 000	7.6	21.0	46.0	4 068 401	44.2	4.9	3 353 951	36.4	132 379		
Mpumalanga	7 949 000	6.5	7.0	41.3	4 544 012	57.2	5.5	762 823	9.6	240 014		
Gauteng	1 701 000	1.4	19.7	97.2	756 946	44.5	0.9	36 762	2.1	3 453		
NATIONAL	121 909 000	[100]	[100]	58	82 209 571	67.5	[100]	15 813 238 +931 938*	13.0	810 292	1 900 000	770 000
								16 745 176	13.7	3 480 292 ha		

Sources: Compiled from StatsSA (1996, 2000, 2003b); DLA (2003, 2004b); CRLR (2004).

Notes: \*Unspecified land held in trust by the Minister of Land Affairs 'for various African traditional communities' (DLA 2003).

'Communal areas' includes 2 902 056 ha classified as Ingonyama land in KZN but excludes 1 277 926 ha classified as 'former coloured rural areas', mostly in the N. Cape, but located also in the W. Cape, E. Cape and Free State. If these areas are also added to the national total, the % of communal land rises to just under 15% of South Africa's total land area. The % of communal land in the N. Cape also rises, to roughly 3% of the provincial total land area.

### *The non-programmatic limits to land reform*

In this concluding section I take a step back to review the argument that there are limits to what South Africa's land reform programme can be expected to deliver. I am certainly not arguing that there is no place for land reform; hopefully I have made the case for it earlier. I am, however, concerned about overly optimistic expectations of what land reform can do – nostalgia and romantic identity politics are not sufficient bases for a strong agrarian policy. In particular I am concerned with what may be termed the non-programmatic limits to land reform – i.e. constraints that are rooted not in the weakness of political will, or in the failures of particular state conceptions or practices around land reform, but in structural issues. These are constraints that would face other land reform practitioners, with alternative programmes to the ANC government, as well.

The issues I highlight need to be thought of as interacting with, rather than as operating in isolation from, one another. The first of these involves demography, including population growth and urbanisation. In the course of the 20<sup>th</sup> century the population of South Africa has grown ninefold, from a little over five million in 1904 to some 45 million today (StatsSA 2003a). Inevitably this translates into increased competition for the most favourable land as well as more pressure on resources, and requires state regulation of settlement options and land use. Furthermore, today over half the population (58 per cent) is classified as urban (StatsSA 2003a). Urban constituencies are politically dominant, and even though many people living in urban areas straddle rural- and urban-based identities and livelihoods in complex ways during the course of their lives, the aspirations and expectations of growing numbers of South Africans, young people in particular, are nevertheless urban rather than rural.

The second issue concerns ecological constraints. South Africa is a water-poor country and access to water is set to become an increasingly serious regional issue in the coming decades. The optimal management of water poses major policy, planning and regulatory challenges for the state. Linked to this, there is also a limited amount of arable land in the country – only 13 per cent of the country is classified as arable, most of it on the already densely settled eastern seaboard (Cowling 1991). Much of the country is not suitable for large-scale resettlement or intensive land use, for example the Northern Cape, which has

already been mentioned. The issue here is not whether one can or cannot 'do land reform' in arid areas. The issue is what sort of land reform, for what densities of population, with what sorts of return, and at what cost to the state and the environment.

The third issue concerns the difficulties facing agriculture as an economic sector in today's world. Neither the local nor the global policy and economic environments are favourable for those trying to make a living out of farming, whether at the small-scale or at the large-scale end of the spectrum. Hence the need to look more carefully at the opportunities for a land reform programme less closely identified with agriculture than is currently the case.

The fourth issue, which is of particular relevance for redistribution projects and proposals that are premised on the state acquiring land proactively (including my own), concerns the reluctance of many (not all) poor people to relocate from their social networks, from the known, and move long distances in order to access land. Unless we are proposing massive state engineering programmes of population relocation, which would be ominously reminiscent of apartheid-era planning, social factors of this nature also set limits to a radical redistribution programme, especially to the opportunities offered by redistributive land reform for the heartland districts of the former bantustan territories, notably the Transkei. This is not to say that there is no interest in these areas in migrating in search of new opportunities – migration is after all woven into their history over the past 150 years. However, one recent national study of migration has documented that those who are most vulnerable in terms of poverty are the least likely to migrate, with poor women-headed households particularly strongly represented in this category (Kok, O'Donovan, Bouare & Van Zyl 2003). This reinforces the argument for tenure reform in the communal areas, in support of those unable or unwilling to take advantage of land redistribution projects located outside the former bantustans.

My final issue concerns the as yet inadequately articulated and poorly understood impact of the HIV/AIDS pandemic, not only on poor people's priorities and needs in relation to land reform (and other state programmes) but also on state capacity to design and deliver its programmes effectively. There are many difficult issues and unknowns here, but numerous studies have shown that the capacity of AIDS-affected households and individuals to use their land productively and defend their land rights is strained and/or eroded, while tensions over land rights, tenure systems and land use between

men and women and across the generations may be exacerbated by HIV/AIDS. Elevated morbidity and mortality rates can be expected to undermine community institutions, such as land management structures, and put pressure on local and national priorities for land reform.

### *A concluding case study: Cremin*

I conclude with a brief account of the experience of the land restitution community of Cremin, near Ladysmith in northern KwaZulu-Natal, to illustrate the complexities and ambiguities of land reform at project level. I have written about Cremin in more depth elsewhere (Walker 2004). My purpose in referring to this case here is to make the point that if we are serious about strengthening land reform policy, we need to move between the macro and the micro levels of analyses, and learn from the experiences of implementation at project level over the past ten years.

Cremin is interesting because it was the first land claim to be settled in KwaZulu-Natal, in 1997, and because it can be regarded as one of the more successful land restoration projects to date. This makes it useful as a case study – it sets a benchmark for measuring not what land reform at its worst has produced but, rather, what land reform at its best has been able to achieve. It is a former ‘black spot’ which was expropriated and removed in 1977/78. The claim was settled without acrimony and with some memorable moments of genuine goodwill. Community leadership has been reasonably cohesive and effective and the restituted community’s Trust committee continues to display a strong commitment in principle to farming. The practice is, however, proving more difficult, even though the land, while not prime, is not bad, and the farm is relatively well located in terms of roads, access to town, a railway line and markets.

By early 2004, seven years after the claim was settled, only a handful of claimants (17 out of 85) had returned to the farm. Young people I have interviewed are reluctant to move away from the township outside Ladysmith to which their parents were relocated 20 years ago, and in which most of them were born. It is not sentimental ties that keep them there as much as a reluctance to leave the better amenities and services of the township and a desire to find urban work. Furthermore, at Cremin the infrastructure that was promised in terms of the restitution settlement grant is still not properly operational. The local

council is seen by claimant representatives as overly politicised and has not taken on the service development responsibilities delegated to it by the DLA, while the Department of Agriculture has never visited the project.

Cremin is far from being a disaster, but it is struggling to become the productive agricultural community that both its leadership and the state since 1994 have aspired to recreate. For those of us in the business or the politics of developing policy blueprints for land reform, it is important to understand better the actual constraints and opportunities facing Cremin – and all the other land reform projects already out there – and adjust our prescriptions accordingly.

### Notes

- 1 The report quoted Chief Land Claims Commissioner, Tozi Gwanya, as stating ‘that only 80 000 of the six million people dispossessed by racist legislation had lodged claims’ to arrive at the figure of 2 per cent. Apart from the difficulty of computing the total number of potential beneficiaries before the process is completed, the report confuses land claims lodged with potential beneficiaries and fails to draw distinctions consistently between individuals, households and communities in both the historical and the contemporary figures.
- 2 According to the SPP, a total of 860 000 individuals were moved under the Group Areas Act by 1983 (Platzky & Walker 1985: 10).
- 3 According to the 1996 Agriculture census (StatsSA 1996: 5), there were at that stage 6 730 commercial farming units in the Northern Cape, encompassing 29 734 978 hectares out of the national total of 82 209 671 hectares of agricultural land.

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# 7 *Agricultural land redistribution in South Africa: towards accelerated implementation*

Rogier van den Brink, Glen Sonwabo Thomas and Hans Binswanger

## *Introduction*

I was born at the foot of anthills that cast suspicion on the silent threat of mountains. I grew up in a mining town in Namaqualand. My parents grew up in so-called coloured reserves. Their parents lived on missionary land. These were places with rules that men with see through skin and black holy books defined punitively – blacks will not own land. Here, generation after generation, we lived conditional lives, understanding how profoundly the development of mines and reserves and missionary stations sanctioned our castration from the land and ourselves. So we misplaced ourselves. These places made grown men faceless, weak and angry. They made grown women dependently worn out and left questioning children harshly chastised to silence the accusing presence in the hundred and ten half human trees that covered the hills. I was told that these trees tell the story of the Nama people. Who before the arrival of waist high poles and wire moved between shadows of seasons and open spaces, to honour the needs of the goats, the gods and the land. Namaqualand. The land of the Namaqua's. I say it often. Sometimes being is as simple as knowing the womb is not a place to overstay one's welcome. Sometimes it is as complex as knowing where your umbilical cord was buried, and what that means to be a part of... (personal communication)

These are the complex feelings of Elspeth, a contemporary South African woman, working for a non-governmental organisation<sup>1</sup> (NGO) which focuses on the land issue. Elspeth is not alone. James Gibson (2001) surveyed



3 700 South Africans and asked them about their perspective on the land issue. He first tried to assess how important the issue was compared to other issues. Not surprisingly, 89 per cent of respondents rated unemployment as a very important issue, closely followed by poverty (86 per cent). But 57 per cent judged the land issue to be very important, comparable to racism and discrimination (59 per cent), racial reconciliation (56 per cent), and pollution (55 per cent). Gibson then asked his sample to agree or disagree with the following statement: 'Most land in South Africa was taken unfairly by white settlers, and they therefore have no right to the land today.' An astonishing 85 per cent of the African respondents agreed with that statement. And two-thirds of Africans agreed that 'land must be returned to blacks in South Africa, no matter what the consequences are for the current owners and for political stability in the country'.

We start with the opening quote and survey results to emphasise that land redistribution is foremost a matter of fairness and equity. It will almost always quickly take us back to history when people feel that the way that property rights were established earlier was not fair. A history in which farmers were dispossessed of their land often corresponds in people's minds to a grave injustice – a wrong to be righted, no matter what.

Unfortunately, it is exactly this link to feelings of injustice which makes land redistribution in many countries such an urgent development issue, on the one hand, and too political, sensitive and controversial to be dealt with as part of the economic development and poverty reduction strategies by governments and development partners alike, on the other. And it does not help that even among those who are essentially in favour of land redistribution there does not exist consensus on the 'how to do it' part. This confuses policy makers and the development community at large, providing another excuse for inaction and for avoiding the heart of the matter – the actual redistribution of property rights in land.

The chapter is organised in several parts. First, we restate the case for land redistribution, based on equity and efficiency grounds. Second, we describe the lessons learned with respect to land redistribution policies, with specific reference to South Africa, and in the process define a policy framework for the third part of the chapter, in which we suggest a set of specific policy recommendations. We conclude by stressing that there is a heightened sense of urgency in the need to address land redistribution in South Africa. This

sense of urgency should lead the stakeholders to agree now on an overall policy framework for redistributive land reform within which the competing paradigms can actually compete where it matters: on the ground.

### *The case for land redistribution*

In countries with a highly unequal distribution of land, the case for land redistribution – redistributing property rights from the rich to the poor, from large to small farmers – is a strong one, from both a theoretical and an empirical perspective. It rests on strong arguments about conflict prevention, equity, economic growth, jobs and poverty reduction. In spite of this, considerable controversy exists about land redistribution. The roots of this controversy are to be found in ideology, politics, history, economic theory, and various efficiency and implementation arguments – a daunting list. A list of the most frequently cited issues that describe the controversy with respect to land redistribution follows.

#### *Efficiency*

Controversy exists about what economists call the ‘large versus small farms’ or the ‘farm size–productivity’ debate. Nearly a century of research by agricultural economists, in particular, all over the world<sup>2</sup> has produced a counter-intuitive stylised fact: generally, family farmers use resources – land, labour and capital – more efficiently than large, commercial farmers who depend primarily on hired labour. This stylised fact is known as the ‘inverse farm size–productivity relationship’. It implies that agriculture is generally characterised by diseconomies of scale. And it means that redistributing land from large to small farmers can bring efficiency gains to the (local) economy. This often comes as a shock to those who equate efficiency with the visible signs of modernised, highly mechanised farms which achieve very high crop yields.<sup>3</sup>

However, the economists’ notion of higher efficiency of family farmers and diseconomies of scale does not equate with higher yields. It does not mean that small farmers have higher yields. Yields are quantities, not values. For example, yields can be raised enormously by applying lots of fertilisers and pesticides, but that does not necessarily mean that a profit will be made. In other words, achieving high yields can be inefficient. And if high yields are achieved through state subsidies, the economist will still call this inefficient.

In practice, large farmers often achieve higher yields than small farmers on the land they actually cultivate. But at the same time large commercial farmers often use only a small fraction of their land for crops, leaving much arable land to pastures and forests, which provide lower values of output per hectare than the crops of family farmers. The underuse of the land is the most visible sign of large farmers' inefficiency.

Not visible, but consistently showing up in the research results, are the higher profits (in kind or in cash) for every unit of investment (either in kind or in cash)<sup>4</sup> on small farms. Note that this does not mean that small farmers are richer than large farmers. Often it simply means that they make relatively more out of the little they have.

What causes these results and how do we define a 'small' farmer? Farm size per se is not the defining feature of family farmers; instead it is their primary reliance on family labour rather than on hired labour. What constitutes a 'small' farm will vary considerably because of differences in soil fertility, rainfall distribution, market development, technology and the opportunity cost of capital and labour in the economy. For instance, from a profit perspective, 500 hectares of semi-arid shrub can be 'small' when compared to half a hectare of irrigated roses. Physical size is not what matters. The productive capacity controlled by the farmer is.

'Small' farmers operate their farm using mainly family labour, and employ capital and machinery that they can afford or hire in rental markets. This is the main cause of the superior efficiency of family farms: the owner of the farm lives on the farm, manages the farm herself, and is aided by other family members. These do not need a lot of supervision to work their farm well, because they care about their own property. Hence, instead of 'small' farms, it would be more appropriate to speak of 'family-sized' farms.

If the opportunity cost of labour in the rest of the economy is very low (the so-called 'reservation wage'), calling the efficiency of family labour 'superior' is little consolation. Put simply, if poverty is everywhere, and all there is left to do is to try to eke out a living on a small plot of land, the higher profits per hectare of the family farmer that show up in the researchers' books do nothing to reduce the farmer's misery. Again, efficiency and income levels are different concepts, and efficiency can be associated with hopeless exploitation by one's self<sup>5</sup> or ruthless exploitation by others. So 'small' is often not 'beautiful'.

The efficiency of the family farm also does not imply that the average farm size does not increase as farmers' incomes rise. As the history of the developed countries has shown over the last 50 years, farm size grows as a consequence of rural–urban migration caused by rising urban wages. Migration allows the remaining farmers to then earn higher incomes. To manage the larger areas, the farmers change to crops requiring lower labour intensities, or they mechanise their operations. But this increase in average farm size is not, it should be emphasised, due to economies of scale. Current US agriculture, for instance, is characterised by diseconomies of scale. At the same time, though, average farm size continues to rise due to the overall increases in incomes in the US economy.<sup>6</sup>

Under economies of scale, each additional unit of land brought into production can be cultivated at less cost than the previous one. Under economies of scale, marginal costs, and thus average costs, go down, and thus profits per hectare and the rate of return go up. Such economies of scale in agriculture are limited. They are limited to those crops where economies of scale exist either in marketing or where large farmers have better access to finance and information about technology and markets. Such advantages then spill over into production, but they are not caused in the production process itself.

If farms increase in size (or in capital stock) beyond a size that a family can comfortably manage itself, more hired labour is needed. It is the increased cost of supervision of the hired labour – the transactions costs – which is the source of the economic inefficiency.<sup>7</sup> Not surprisingly the most successful agricultural systems in the world, such as in China, Thailand and Costa Rica, are largely run by family farmers.

Acknowledging that small farmers often use their resources – however meagre they may be – better than their larger counterparts does not mean that there are no disadvantages to being small. The main disadvantages of small farmers lie in more difficult access to credit, markets, and information – especially information about new markets and technologies. In addition, public and private agricultural research has often been biased towards developing technologies suitable to large farms, given their lobbying power and financial wherewithal.

Larger farmers usually have easier access to cheaper credit. This enables them to respond quickly to the market, especially when the market demands

agricultural products with high investment costs, such as horticultural products. Small farmers are also at a disadvantage when the market demands that large quantities of standard quality be produced at exactly the right moment. Coordinating such production may be easier to organise on a large farm, even if it means managing a large labour force. This applies to many of the 'plantation crops', such as bananas, sugar, and tea. Hence, there do exist situations where medium and large farms are more productive than small farms.

Since large estates usually use less labour per hectare (or unit of output) than family farms, they generate less employment per hectare (or unit of output) for the economy as a whole. This is a consequence of their low land-use intensity, where only a small fraction of the landholding is under crop cultivation. While they may utilise modern techniques and inputs, and achieve superior yields on the land they crop, their overall land-use and employment intensities are usually low.

Large farmers are often well organised and well connected, and are able to lobby governments for special tax breaks, subsidies and other special distortions. The consequence of these distortions is invariably that they face lower effective capital costs relative to labour costs, and therefore over-invest in more machines that replace labour than they would have had they not been able to obtain the tax breaks, subsidies and cheap credit. This can mean that an agricultural economy based on large farms becomes socially inefficient. Even as production in the large farm sector rises, its contribution to employment may actually decrease, while high unemployment in the overall economy persists or becomes even more severe.

### *Equity, growth and poverty reduction*

One of the most compelling reasons to support an agrarian structure based on smaller family farmers rather than on large commercial farms comes from the body of international experience on what it takes to achieve high growth and reduce poverty. Does a consensus emerge from the international experience?

Recent research comparing many countries with one another suggests that equity, in general, is good for growth (e.g. Aghion, Caroli & Garcia-Peñalosa 1999). And, in particular, equity in land distribution is also associated with overall higher economic growth (Deininger & Squire 1998; Deininger & Olinto 2000). Country case studies confirm this hypothesis. For instance, the

initial phase of China's high and sustained growth and poverty reduction spurt was clearly linked to its change from collective large-scale farms to small family farms in 1979 (Ravallion & Chen 2004). Once collective production was abandoned and key agricultural markets were liberalised, China's peasant sector provided the initial engine of the rapid economic growth which dramatically reduced poverty. Recent research<sup>8</sup> confirms this thesis in many other contexts and settings, namely, that equity is good for growth.

More equitable land distribution is also beneficial for non-agricultural and non-rural growth. Access to land provides a good social safety net, which induces more farmers to move into non-farm businesses, given the higher risks associated with entrepreneurship. In China, the broad-based access to land allowed peasants to take increased risk, move into non-farm activities, and then produce the boom in small-scale entrepreneurs. This also explains why China spends significantly fewer fiscal resources on social security-type transfers than, say, India, where the poor have much more restricted access to land (Deininger 2003).

Other success stories are found in Costa Rica, Indonesia, Malaysia, Taiwan and Thailand. These countries' agricultural sectors are all predominantly based on owner-operated, small-scale family farms.<sup>9</sup> When these countries also made substantial investments in rural infrastructure to help small-scale farmers, and had no or light taxation of agricultural production (this included avoiding overvalued exchange rates), they created the type of high and sustained agricultural growth which substantially reduced rural poverty. This is because family farmers spend more of their income on locally produced goods and services than large farms do, creating a positive relation between family farms and non-farm incomes in the local economy.

An illustration of the point for the US is found in a seminal study of two small towns, first published by the US Senate in 1946. Walter Goldschmidt (1947) compared two California towns, Arvin and Dinuba, which were selected because they were virtually alike in all basic economic factors except farm size. While the total volume of agricultural production was about the same, the 'small family farm' community supported about 20 per cent more people at significantly higher living standards, had twice as many businesses doing 61 per cent more retail business, and boasted a substantially higher level of public infrastructure than the 'large corporate farm' town. When Goldschmidt proceeded to replicate his findings nationwide, his research was

stopped due to political pressure from the large farm companies. However, his landmark study would later spawn other research, confirming his hypothesis that family farms were better for rural poverty reduction than large-scale corporate farming.

The history of many land redistribution programmes demonstrates that once poor people are given good farmland they can lift themselves out of poverty permanently, even without significant government support. In Africa, this has been shown to be true in the case of both Kenya and Zimbabwe. Even without substantial support services, Zimbabwe's land reform programme of the early 1980s was deemed a success. A longitudinal household data set on land reform beneficiaries shows that after about ten years 'land reform beneficiaries cultivate nearly 50 per cent more land than non-beneficiaries, obtain four times as much in crop revenues, own substantially more livestock, and have expenditures that are higher by 50 per cent' (Hoogeveen & Kinsey 2001: 132). Without a doubt, providing more support services would have sped up the process of establishing successful small farms.

At the other end of the spectrum, one finds the countries that have been least successful in terms of rural poverty reduction. These include Brazil, Colombia, Guatemala and South Africa. Not surprisingly, these countries are characterised by highly unequal landownership, with substantial public investments in large-scale farming. While these large-scale farms have usually become technically sophisticated, they make economically inefficient use of land and labour, and lead to rapid out-migration of labour from the agricultural sector into urban or rural slums. In short, by focusing too much on their large-scale farms, these countries created *more* rural (and urban) poverty.

Deininger (2003) and the World Bank's (2003) World Development Report provide further compelling evidence of the long-term implications of inequality in landholdings and development. By tracing individual countries' long-term development paths within sets of comparable countries (Columbia, Costa Rica, Guatemala, El Salvador; Indonesia, the Philippines and Thailand; states within India; and North and South America), they further illustrate how initial inequality in landholdings leads to dramatically different development outcomes in the long run. Deininger (2003), and Acemoglu, Johnson and Robinson (2001, 2002) use cross-country time series to show the same 'path dependent' development pattern: countries with a more egalitarian

distribution of land tend to have better, more inclusive institutions which in turn leads to higher levels of economic growth.

### *Fairness*

Finally, perhaps the most important reason to worry about equity is linked to the inherent political and social nature of property rights. History and culture, and many other factors, can mould what a community or a nation thinks is a fair use and ownership of land. And, as history shows, communities may even change their views on what is appropriate and fair.

Societies usually have strong feelings about how and by whom land should be used, because the overall area of land in a country is fixed, and agriculture is (or could be) an important source of income for many people. Notions of fairness, or equity, are often very pronounced when it comes to land: there often is a general feeling that land should be equitably distributed to as many people as possible. A countryside populated by small family farmers tilling the land corresponds in many people's minds to a system that is fair and equitable.

Unresolved land issues lead to violence, civil unrest, or even civil war, and demonstrate most effectively how strong these notions of fairness are. Land-related conflicts have plagued countries such as Algeria, Brazil, Colombia, El Salvador, Honduras, the Philippines, and many others. In Africa, the establishment of the settler colonies in Kenya, Namibia, South Africa, and Zimbabwe was accompanied by fierce resistance from the displaced indigenous people. Countries that are beset with unresolved land problems are doomed to protracted periods of economic instability.

Extremely unequal distribution of property rights in land and water has been the legacy of white settler colonies. These settlers appropriated for themselves the best pieces of land, either for livestock or crop production. They then turned the indigenous African peasants into tenants or wage labourers, or simply expelled them (Wolpe 1972; Bundy 1979).<sup>10</sup> And when mechanisation (subsidised by the state) made it feasible to depopulate the land, African tenants and wage labourers were removed at an even faster rate and driven away from their homes into marginal areas, designated 'homelands' or 'communal areas'.



Apart from the fact that – by design – the resource base of these homelands was poor, the manner in which property rights were dealt with further contributed to the brake in their development.<sup>11</sup> In the southern African countries, communal areas or homelands are, in theory, governed by ‘traditional’ or ‘communal’ property rights regimes, but in fact land is state-owned and subject to a particular colonial interpretation of ‘traditional’ tenure. These interpretations have also become quite static, and sometimes lead to the insecurity of property rights, thereby undermining the development of land sales and rental markets. If these regimes had been allowed to change according to the needs of the communities, they would have probably evolved slowly towards land use based on private property, where intensification was encouraged, and towards forms of common property where private property did not make economic sense, as in very dry areas only suitable for livestock production.<sup>12</sup>

The removal of African peasants from their land was very systematic.<sup>13</sup> Today, the most fertile lands in southern Africa are occupied by very large, sprawling farms which are, on average, underused. The highest population densities – African population densities – are found in the most infertile rural areas and often close to natural parks. This is what is called the ‘rural geography of apartheid’, brought about by economic policies that have favoured the settlers and the forced removal of African people from fertile lands over a period of over a century.<sup>14</sup> This inefficient geography continues to impose tremendous costs on the poor and the economy as a whole. But it is also highly inequitable. And since the legacy of the removal of African people from their land is often still fresh in people’s minds, land reform is a highly emotive issue.

Communities and nations will have to deal with this legacy. They will invariably form opinions about what is fair. They may simply look at the land issue as one of justice and redressing old wrongs. This is as it should be. People should reflect on the existing property rights and democratically make decisions about their distribution, because, as history shows, ignoring a looming land conflict is a very risky economic strategy indeed. In southern Africa, like elsewhere, restoring a more equitable distribution of land will greatly contribute to more social cohesion, which will foster more inclusive institutions and policies, and hence better long-term development.

### *Land redistribution policies: lessons learned*

Preventing a looming land conflict means undertaking land redistribution on a substantial scale and at a rapid pace. Unfortunately, international experience suggests that substantial land redistributions are most often done in periods of upheaval and political violence. Some observers even go so far as to draw the conclusion that there is no such thing as a peaceful and 'orderly' land reform. The Zimbabwean Fast Track Land Reform Programme of the early 2000s, under which the government of Zimbabwe explicitly and publicly decided to set the Constitution and the law aside, seems to confirm this stylised fact.

To make such a historical precedent into a policy recommendation is not only false logic; it is also dangerous. If a society has the choice between doing land reform with or without violence and economic destruction, surely that society would choose the 'without' option. This, then, is the challenge: can land reform be implemented at scale peacefully and successfully?

The starting point is to analyse past failures and derive lessons. The following sections will argue that there are three main reasons for the lack of success of 'peaceful' land reform: (i) land markets need help; (ii) land acquisition and resettlement can be slow and costly; and (iii) large farmers will lobby against land reform. However, we will start with a brief background on the opportunities and challenges of land reform in South Africa.

### *Land reform in South Africa*

Land and agricultural policy reform in South Africa holds the promise of increasing efficiency, equity and generating jobs. South Africa's farms also confirm the international evidence that size matters. Within the commercial, formerly 'white' farm areas, smaller farms have consistently higher profits and employ far more labour per hectare than large farms (Christodoulou & Vink 1990; Van Zyl, Binswanger & Thirtle 1995). It would be unfair and, because of the general lack of data on African farming, virtually impossible to compare the formerly white farming areas with the formerly African areas (the so-called homelands), because of the centuries of suppression of African farming. But there do exist case studies in the tea and sugar-cane industries which compare small African farmers benefiting from support services under contract farming to their large-scale counterparts. These case studies

confirm the higher efficiency of the small farms. And in dry-land cotton, small African farmers were more efficient than white farmers, even under apartheid (Wheeler & Ortmann 1990).

Livestock production is characterised by the same diseconomies of scale associated with farm size and the need to hire additional labour. It is, of course, true that arid lands are not very suitable for crop production, and that lumpy investments into wells and pumps will tend to favour larger units. But this should not lead us to thinking that, therefore, land redistribution in dry areas (most parts of southern Africa) is impossible. 'Dryness' does not reverse the inverse farm size–productivity relationship, which is based on labour supervision costs, not on rainfall. Furthermore, land reform in dry areas does not imply a wholesale switch from livestock to crop farming.

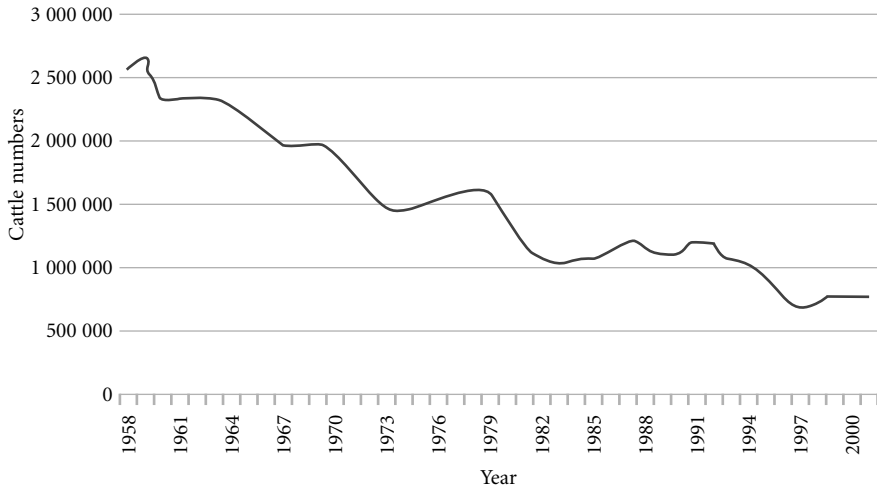
Arid and semi-arid lands are excellent livestock production areas (e.g. Texas) because of the lesser risk of disease compared to more humid areas. After land reform, this comparative advantage remains, but production costs will go down due to the lower labour supervision costs on the new family farms. In addition, breaking up large-scale, fenced-in ranches would improve on efficiency in several other ways.

First, in semi-arid and arid areas, rainfall variability (and hence the availability of water and fodder) is very high, putting a premium on flexibility. The benefits of flexibility increase with rainfall variability (Van den Brink, Bromley & Chavas 1995). Given highly variable rainfall, the fenced-in area will never be large enough, forcing the owner to either move or sell their herd during severe droughts, at significant cost. These costs are sometimes transferred to the surrounding areas – common property is turned into open access – or to the state: special subsidies are then instituted to prevent livestock prices from plummeting. Getting rid of fences, and organising more flexible grazing systems in other ways, would increase the efficiency of production.

Second, the suppression of bushfires to protect the costly ranching infrastructure leads to so-called 'bush encroachment', thereby reducing the area under pasture.<sup>15</sup> Following this pattern, as Figure 7.1 shows, Namibia's commercial cattle herd has shrunk by 70 per cent over 40 years. This is clearly not an efficient production system. If the lost grazing land were now to be recovered, the bush-encroached areas would need to be manually or mechanically de-stumped. Land redistribution from large to small farmers

would make available the extra labour required to de-stump the areas affected by bush encroachment.

**Figure 7.1** Namibia: Cattle numbers in commercial ranch areas (1958–2000)



Source: De Klerk (2003: 20)

Third, at higher population densities, the depressions, where good soils and water accumulate, will be cultivated with crops, resulting in the very beneficial interaction between crops and livestock (through fodder and manure).

In summary, even though the empirical evidence for the higher efficiency of family farms in South Africa remains scarce, the existing data confirm the international evidence. There is a case for land reform on efficiency grounds, including in dry areas.

If this is so, then what has the government done about it so far? The government's target is to redistribute at least 30 per cent of the land in 15 years and complete the restitution process by the end of 2005. In 1993, a joint South African and World Bank team estimated that reaching the land redistribution target would cost between R22 and R26 billion in total, or about

R1.5–1.7 billion per year, and create more than one million rural livelihoods, or the equivalent of 600 000 net full-time farm jobs at about R35 000 per job. We use the term ‘livelihoods’ because family farm communities the world over consist of households which obtain only part of their income from farming. For instance, the contribution from farming to the average farm household in the US is only 11 per cent, although this contribution will rise to 60 per cent on large family farms.<sup>16</sup>

The main economic impact of a well-executed land reform programme would therefore not only come from a more intensive use of agricultural land, but perhaps more importantly from the multiple livelihoods created by a more dynamic local peri-urban and rural economy based on a substantial increase in the number of small family farms. In the short term, creating sustainable ‘pluri-activity’ households with only a small (say up to 25 per cent) portion of income coming from farming is especially feasible and attractive in the peri-urban areas, where there is a dearth of small-scale agricultural production for the informal urban markets nearby.<sup>17</sup> In the medium term, stimulating pluri-activity households at higher income levels and with a higher contribution from farming could also be achieved in the rural areas. However, much more will be needed here in terms of support services and rural infrastructure investments to stimulate farm and non-farm incomes of rural households. These investments will need to be undertaken as part of the integrated local development plans and fiscal transfer systems underpinning decentralised development in South Africa.

But current trends are alarming. In 1996, nearly half (46 per cent) of South Africa’s population of 40.6 million people lived in the rural areas (StatsSA 1998), where 70 per cent of the poor live. In spite of the dramatic political, economic and social reforms that have taken place, rural areas seem to have benefited less than the urban areas from the policy changes introduced after 1994. When changes in household expenditure, poverty and inequality between 1995 and 2000 are examined,<sup>18</sup> the following trends emerge: slow consumption growth (less than 1 per cent per capita annually); no change in the overall poverty headcount; while the poverty gap, the severity of poverty, and overall inequality increased. The data show a deterioration of real expenditures at the bottom end of the distribution and an improvement at the top. Since most of the poor live in rural areas, this implies that the rural African population is impoverishing, both in absolute and in relative terms.

What are the trends in agriculture? Parts of commercial agriculture responded well to the devaluation of the currency and trade liberalisation, exploiting the new opportunities for South African products abroad. Agriculture now contributes 4.5 per cent to exports – a share which has been rapidly growing since the liberalisation process started in the late 1980s. But the increased export orientation was not matched by increased labour-intensity of production in the sector as a whole. Employment in commercial agriculture declined, from about 1.1 million in 1995 to 0.9 million in 2003, or about 10 per cent of total employment.<sup>19</sup> This trend needs to be reversed, given the imperative to reduce overall unemployment in South Africa, measured at about 30 per cent at the time of writing. Laid-off and evicted farm workers would be an important target group for South Africa's land reform programme. But even some of the unemployed youth in urban areas, without any farm experience, will find it worth their while to join the beneficiaries of land reform and work on these new farms. Yes, a job in town is much more desirable to them, but if there are no jobs, working on a farm may be better than permanent unemployment in South Africa's sprawling squatter camps.

In the former homelands, where about 12.7 million people – or 31.4 per cent of South Africa's population – live (StatsSA 1999: 7), subsistence farming bucked the general jobs trend, and added a respectable 0.4 million livelihoods between 1995 and 2003 (StatsSA 2000). This is all the more remarkable because of the limited potential for agriculture, the low consumption growth, the lack of investment (and maintenance of existing investments) in irrigation infrastructure, and the poor agricultural support services. Much more can be done to promote farming in these areas, while land reform beneficiaries could also be drawn from there.

But what has the government achieved so far on land reform? Even though the first law to be enacted by the new government in 1994 was land-related (the Restitution of Land Rights Act), the government's land reform programmes were off to a slow start. Between 1994 and 2005, only about 4 per cent of total agricultural land in South Africa was redistributed, while the stated target is 30 per cent of the land or about 25 million hectares in 15 years. The land reform strategy has three main programmes: (i) restitution of land to the victims of forced removals; (ii) land tenure reform to promote security of tenure for all; and (iii) redistribution of land to historically disadvantaged landless people. Fortunately, after some key improvements

were made to the restitution and redistribution programmes, the delivery rate is currently accelerating.

Hence, the challenges facing the ministries of Agriculture and Land Affairs are daunting. To attain the overall goals of ensuring peace and stability in rural areas, reducing rural poverty and increasing African empowerment in agriculture, the following objectives need to be achieved.

First, agricultural and other policy reforms need to continue to target increasing the labour-intensity of the sector. Second, the pace of delivery of the ministry's main programmes needs to pick up substantially. This includes as a priority the restitution programme – of key importance from a justice perspective but, when unresolved, undermining investment incentives in the farms affected – which will need to come to closure by December 2007, by which time all the outstanding claims need to be settled. It also includes increasing the pace of the land redistribution programme, because most of the target of 30 per cent of land redistribution will have to come from the government's flagship land redistribution programme (Land Redistribution for Agricultural Development [LRAD]) and a better functioning land market, which continues to be constrained by a number of key distortions. Tenure reform needs to be fully implemented, especially to provide broad-based, democratic and secure access to land in the communal areas. And to ensure improved livelihoods and productive and sustainable land use on all transferred land, beneficiaries need to be fully empowered with adequate resources and support services through the main agricultural support programmes. Finally, the ministry's monitoring and evaluation systems need to dramatically improve to provide timely feedback on the achievement of outputs and outcomes.

In the following section we shall elaborate on some of these challenges, with an emphasis on increasing the pace and improving the impact of the redistribution programme. We follow the main lessons from international experience: land markets need help, land acquisition and resettlement can be slow and costly, land reform is usually underfunded, and large farmers will lobby against land reform.

### *Land markets need help*

What about letting the market solve the issue of land redistribution? Why would one need state intervention? If small farmers are so efficient, why

does the market then not automatically transfer the land from inefficient to efficient users? Why do small farmers not go onto the land market and outbid large farmers for land, especially in light of the fact that large farmers usually do not even use all of their land?

There are a number of reasons why the land market, as it is defined in many countries that are characterised by very unequal landholdings, fails to redistribute land from large to small farmers. First of all, the poor do not have money to buy land, and either no, difficult or costly access to credit.

Second, agricultural land prices may be high due to many factors: investors may value land not just to farm, but also for its value as insurance, as a hedge against inflation, as a tax shelter, or as a means by which to gain access to subsidised credit or public infrastructure (e.g. irrigation works). And if subsidies in input and output markets are also biased towards large farmers, they will drive up the land price and increase the wedge between what small and large farmers can afford to pay.<sup>20</sup> Hence, even if small farmers had access to credit, they would not be able to repay the credit.

Third, in the context of imperfect markets for credit and insurance – a context typical of rural areas – land sales markets may instead lead to distress sales of production assets, such as draft animals or land, by poor small farmers during major droughts and other adverse shocks, creating even more poverty (Binswanger & Rosenzweig 1986).

Land *rental* markets could overcome some of these problems, but they often do not result in a redistribution of access from large to small farmers in countries where there is a highly unequal distribution of land to start with (Deininger, Castagnini & González 2004). Non-economic factors may contribute to this lack of transfers (sale and rental) between large and small farmers. In South Africa, this includes the so-called Not In My Backyard or NIMBY phenomenon – a legacy of apartheid.

Better credit markets would overcome some of the imperfections in the land markets, but it is difficult to increase the credit supply to small farmers and the landless. Credit markets are constrained by many factors, including informational asymmetries which are difficult to overcome. This is why credit markets usually require collateral, which brings the issue of land back into the equation.



Given the political power of large landowners, and the poor track record of agricultural credit systems for small farmers, a policy to increase access to credit for small farmers and the landless is likely to fail, and might even make matters worse if large landowners end up with more credit, and subsequently even more land.

Using legislation to improve the weak economic bargaining position of the landless in land markets is ineffective or counterproductive. For example, India has a long history of legally strengthening the rights of tenants, but in the end, the legislation inadvertently led to the illegal evictions of tenants. Such unintended, adverse effects take place when landowners try to pre-empt tenants and occupiers from acquiring stronger rights. Landowners evict their tenants before the new laws are passed, or exploit lax enforcement of these laws once they are in place.

In South Africa, the 1997 Extension of Security of Tenure Act, the 1996 Land Reform (Labour Tenants) Act, and the 1998 Prevention of Illegal Eviction and Unlawful Occupation of Land Act attempted to prevent illegal evictions and confer certain property rights in land to farm workers. Their impact on illegal evictions and the security of tenure of farm workers is still unknown. What is clear, however, is that only a few cases have actually been settled under these laws, and that they have done little to stem the secular decline of farm employment on South Africa's commercial farms. In fact, it appears that these laws have contributed to pre-emptive evictions by landowners.

The bottom line is that land markets need help, because they cannot be counted on, on their own, to redistribute land from large to small farmers. Current land markets in South Africa need serious reform because, by historical design, they place severe restrictions on land sales to the poor.

#### RESTRICTIONS ON SUBDIVIDING LAND

Poor small farmers can usually only expand slowly by reinvesting their own profits – incrementally – because of the dearth of finance available to them. Poor small farmers can only self-finance the purchase of land, if land markets make small pieces of land available, on a continuous basis.

Unfortunately, land markets in the commercial farm areas of southern Africa do not function like that. South Africa, for instance, still has explicit legal and

policy restrictions against the subdivision of farms into smaller units. The existence of such restrictions should profoundly worry those who believe that large farms are more efficient than small farms. If large farms were *more* efficient than small farms, why would it be necessary to legally restrict the subdivision of land?

This begs the question: where does this restriction on subdivision come from? South Africa's subdivision policy – the Subdivision of Agricultural Land Act (Act 70 of 1970) – was inspired by the danger of *die verswarting van het platteland* (literally, the 'blackening of the countryside'). 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 realise 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.<sup>21</sup> 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.

If 'viability' norms were defended by a settler government on a 'white income standards' basis, this social policy objective should have quickly become obsolete at independence or the end of apartheid. 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<sup>22</sup> and in the peri-urban areas, where the unavailability of small parcels for sale leads to widespread squatting, or so-called 'informal settlements'. It makes it difficult for an African 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. The pent-up demand for land spills over into the informal land market where per hectare land prices quickly reach and sometimes overshoot the levels of the formal market.

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. In order to create a level playing field between small and large farmers, and poor and rich urban dwellers, these land markets must be reformed.

The removal of these subdivision rules is urgently needed. Fortunately, in the context of the government's land reform programmes, the Subdivision Act does not apply – an exemption has been granted. The next step should be to extend the exemption granted to the beneficiaries of government programmes to the land market as a whole. Later, we shall suggest a possible explanation for the remarkable failure by the democratic governments in South Africa and Zimbabwe to remove this barrier to broad-based landownership.

#### DISTORTIONS IN LAND AND OTHER MARKETS CAN DRIVE UP THE PRICE OF LAND

These distortions need to be removed and/or a level playing field has to be created with respect to them. In many countries, the *absence of a land tax* (or of a property tax which includes the land wealth of large farms) raises the attractiveness for the rich of holding land as an asset, but not necessarily to farm it and make full use of it. In South Africa today, the land wealth of large farms is either not taxed at all or, based on a 1939 law, taxed at a rate 100 times less per hectare than that which applies to small farms (see Table 7.1). This extremely regressive tax produces artificial economies of scale, because land consolidation leads to a sizeable reduction in the tax bill. It also makes the cost of holding on to unused or underused land very low and raises the attractiveness of agricultural land as an asset.<sup>23</sup>

For all these reasons, land prices of large farms often exceed what economists call the present value of farm profits. If the land price exceeds the present agricultural value of the land, small farmers will be unable to outbid the large farmer or repay the loan given to them. And so land markets will not redistribute land from large to small farmers. In this situation, a strong economic justification exists for subsidising land purchases by the poor.

**Table 7.1** South Africa: Taxes payable for a 100-hectare farm valued at R400 000 in four municipalities

		Mogale City	Madibeng	Merafong	Mhombela
	Tariff (%)	7.62	17.33	13.00	24.18
Bracket (ha)	Agricultural rebate factor (%)	Tax payable (R/year)			
1	100	304.86	693.20	520.00	967.20
4	25	228.64	519.90	390.00	725.40
20	10	487.77	1 109.12	832.00	1 547.52
>20	1	243.88	554.56	416.00	773.76
Total		1 265.15	2 876.78	2 158.00	4 013.88

Source: DLA (Internal review of LRAD, 2003)

### *Land acquisition and resettlement can be slow and costly*

There exist different ways by which land can be acquired for redistribution to beneficiary farmers: through compulsory acquisition, direct purchases by beneficiaries ('market-assisted' or 'community-driven') or negotiated transfers.

#### COMPULSORY ACQUISITION

Land redistribution has often been slow and costly because many governments choose to redistribute land through legal processes of expropriation or compulsory acquisition. The legal process is rooted in the legal principle of *eminent domain*: the state's power to take private property for public use, following the payment of *just compensation* to the owner of that property. In the past 40 years, countries such as Colombia and the Philippines have accomplished little through this process. It took Mexico around 60 years to redistribute half of its agricultural area. Only Brazil – and only since 1995 – has made a considerable dent in its land problem by expropriating about 20 million hectares in seven years.

The legal process of expropriation or compulsory acquisition can be slow and costly. Amending the law to speed up the legal process of compulsory acquisition can make a discernible difference, as the experience of several countries has shown. Between 1995 and 2002, Brazil redistributed some 20 million hectares

to about 580 000 families, using expropriation as the main method.<sup>24</sup> In seven years, this is twice what was achieved in the previous 30 years. However, there is a limit to speeding up the process. The legal process is based on due process – an important principle of justice – and implies that every farm owner can opt to have his or her day in court. For instance, half of the landowners in Brazil go to court to contest the valuation of the farm, and this slows the process down and makes it more costly. ‘Just compensation’, moreover, is invariably interpreted by courts as at least as high as the prevailing market prices.

By its very nature, then, the legal process is lengthy and costly, adding to the costs of compensation. A country which sets aside the principle of legality and due process, as Zimbabwe did recently, sends shock waves to anybody who would want to invest in such a country, including its own citizens. It leads to disinvestment, devaluation of the currency, and economic contraction. And it creates new wrongs and legal complications which will need to be resolved at a later date, prolonging the uncertainty around the land issue. This is essentially the situation that Zimbabwe finds itself in today.

The case for compulsory acquisition is usually based on a planning argument.<sup>25</sup> For instance, whereas the homelands or communal areas in southern Africa generally have poor soils, they may have reasonable social infrastructure such as schools and health facilities. There may exist large farms next to these areas which have better soils, but no social infrastructure. Compulsory acquisition of a group of such large farms could then be a smart way of giving poor farmers better land, while their families can continue to benefit from the infrastructure present in the communal areas.

Even though the legal process of compulsory land acquisition by the state is inherently slow, the existing legislation can usually be improved upon, while safeguarding the constitutional rights of citizens. For instance, in some countries, landowners do not just have the right to challenge the level of compensation – which seems eminently fair – but also the possibility of challenging what the state defines as the public interest, which seems excessively conservative. In other cases, land acquisition procedures are so complicated and open to interpretation that it is virtually impossible for the state to acquire a significant number of farms within a reasonable period of time. Much can be done in many countries to create better legislation which fairly balances the public and the landowners’ interests.

In South Africa, the legal framework to support land reform is one of the most progressive in the world. First of all, the Constitution and the property clause in it are quite clear on what constitutes 'the public interest'. It explicitly includes land reform and redresses the historical inequities. Second, the South African Constitution even allows the state to expropriate below market value, deducting, for example, the value of past subsidies. In addition, legislation to effect compulsory acquisition exists – the 1975 Expropriation Act. It is not unduly complex and restricts court appeals to contesting only the value of compensation offered, even though it does not explicitly mention land reform as being in the public interest.<sup>26</sup> In fact, it is related legislation (Provision of Land and Assistance Act 126 of 1993), providing for financial assistance for land acquisition, which introduces an additional step in the process by calling for a hearing with affected landowners.

The downside of compulsory acquisition is that it is often perceived as too confrontational. And in practice, compulsory acquisition is usually more costly and slower than other methods of acquisition. Expropriation transfers the title deed from the former owner to the state, which usually triggers procurement and disbursement regulations for the management and disposal of state assets. These may delay the transfer of property rights to the beneficiaries. The delay sometimes results in a dangerous situation of *de facto* open access and asset stripping, which then needs to be prevented by employing costly security forces or hiring the former owner back as a caretaker or manager – with all the incentive problems that this process entails. This has been the experience so far with the few expropriation cases that the South African Department of Land Affairs has undertaken, and it is this negative experience which largely explains why the department has not pursued compulsory acquisition on a significant scale.

#### MARKET-ASSISTED OR COMMUNITY-DRIVEN LAND ACQUISITION

Given the difficulties associated with compulsory acquisition, the question arises why the land acquisition could not be done by the future beneficiaries themselves. The future settlers can decide themselves what farm to buy and the land passes directly from the previous owner to the new owner without ever becoming state property. The process becomes much simpler and also more in tune with what the beneficiaries really want: some may want a farm close to where they currently live, others may want one much closer to an urban centre; some may want a large farm suitable for livestock production, others may want a small plot close to town for irrigated vegetable production.

This approach is often referred to as ‘community-driven’ or ‘market-assisted’ land redistribution. In such programmes in Brazil, Central America, Malawi and India, communities, families, or groups of families are given a grant or subsidised loan by the state to buy their own farm. Of course, they often need help in negotiating these purchases, and there are various ways in which to manage this approach. There is now enough evidence to suggest that it is an approach which effectively transfers land at reasonable cost and speed.

South Africa is implementing two variants of this approach. The first variant is known as the Settlement and Land Acquisition Grant (SLAG), and it was the Department of Land Affairs’ main redistribution programme from 1994 to 1999. The approach is demand-driven and does not involve the prior acquisition of land by the state for subsequent resettlement. It makes a fixed grant available to self-selected beneficiaries, whose eligibility is confirmed or rejected on the basis of a means test – with the maximum total household income set at R1 500 per month. Grants can be used for land purchase for settlement and/or agriculture.

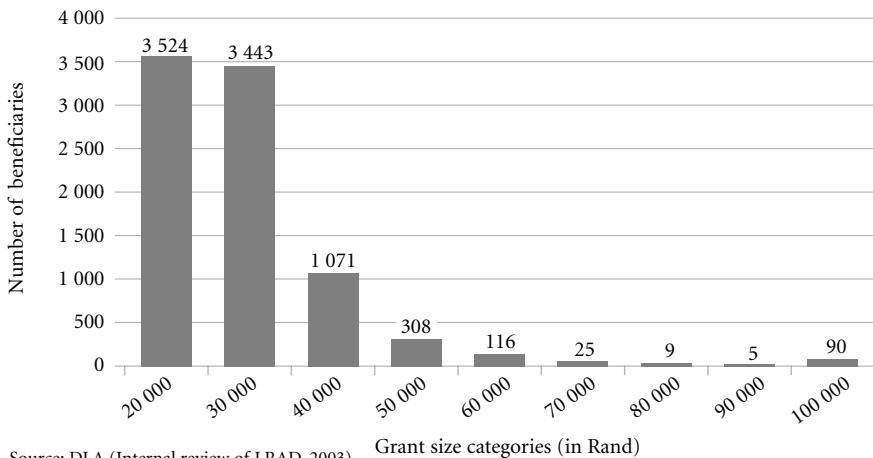
SLAG operations were suspended between 1999 and 2001, pending an internal review, after which SLAG was joined by the LRAD programme. The internal review had concluded that (i) the limited involvement of the Department of Agriculture before, during and after project approval severely compromised the success of those redistribution projects which aimed to support agricultural production; (ii) projects undertaken by large groups (e.g. over 25 households) had a high failure rate in terms of income generation; (iii) the lack of an own contribution made it difficult to screen applicants; and (iv) the means test restricted the target group too much – emerging commercial farmers could not qualify.

As a result of this review, a new sub-programme was added to the redistribution programme – the LRAD programme, developed jointly by the departments of Agriculture and Land Affairs. The main changes *vis-à-vis* SLAG included a broadening of the target group to include emerging African commercial farmers, and the decentralisation of project approvals to the provincial level. One mechanism used to achieve this was the ‘sliding scale’ grant, which made higher grants available to beneficiaries conditional on the size of their own contribution. This own contribution consists of own labour (‘sweat equity’), cash or assets to be used for the project, or a combination of at least two of these. The lowest grant, set at R20 000 per individual, is made available against an own contribution of R5 000 in labour, which is automatically factored in even in cases where cash or assets are contributed. The highest grant, of R100 000,

is made available to beneficiaries who have contributed R400 000. Part of the budget is outsourced to the Land Bank – the government’s agricultural bank – under an agency agreement empowering the Land Bank to mix the LRAD grant with a loan to creditworthy applicants.

Both SLAG and LRAD have demonstrated that, even as their implementation has been constrained by excessive centralisation, the market-assisted approach is able to transfer land at reasonable cost and speed. Both programmes experienced a slow start, as systems were being developed and officials gained familiarity with the implementation procedures. But both programmes also demonstrated their ability to accelerate rapidly in subsequent years. Under LRAD, project approval was delegated from the Minister at national level to the provinces, which was the main factor explaining its faster delivery. LRAD started in 2001, but by late 2002 several provinces had exhausted their budgets in the middle of the fiscal year. The programme is currently severely budget-constrained. Finally, initial fears that LRAD had abandoned the poor seem unfounded. The self-selection using the sliding scale of grants seems effective in reaching the poor, as well as the emerging farmers. Women and youth are also effectively participating in the programme. The distribution of the number of grants (Figure 7.2) and the total value of transfers approved by the provincial offices follows a distribution in favour of the poor.<sup>27</sup>

**Figure 7.2** South Africa: Distribution of LRAD grants (2001/02–2002/03)



Source: DLA (Internal review of LRAD, 2003)



### SALES OF PARCELS BY DEVELOPERS

There are likely to be a number of beneficiaries who would prefer individual acquisition to acquisition as members of communities. For such beneficiaries, developers could be encouraged to acquire farms in the market (or from the state as a result of compulsory acquisition) for subsequent subdivision and development. While often discussed as an option for land redistribution, we are not aware of actual experience with this approach, and therefore suggest the developer model be included on a pilot basis first.

### NEGOTIATED TRANSFERS

Even if better expropriation or restitution legislation is in place, it will always be the case that an out-of-court settlement is far easier and cheaper for all parties involved. The mechanisms for such out-of-court settlements can range from mediation, via non-binding arbitration, to binding arbitration. For instance, South Africa's restitution process started in 1994 when the first law that the new democratic government passed was the Restitution of Land Rights Act. The Act put into operation the clause in the Constitution which allowed for the restitution of property (physically or financially) to persons who had been dispossessed based on racially discriminatory laws after 19 June 1913. The latter date was the date on which the Natives Land Act was passed, restricting ownership and rental of 87 per cent of South Africa's land to whites only.

Initially, each restitution case had to be dealt with by a specialised court – the Land Claims Court. This caused the process to slow down to a trickle, with only 41 land claims (out of a total of 68 000) settled between 1995 and 1999. When the Act was amended to allow for an administrative, out-of-court settlement, the pace picked up dramatically. As at August 2004, 48 000 claims had been settled.

At the level of the broader restitution objective, not based on individual claims, but as part of a general redress of inequalities in land ownership and land use, governments such as the South African one can anticipate the potential for negotiated settlements of various sorts and at various levels. A legal and policy framework can be put in place which maximises the opportunities for reaching such settlements. And governments can create various forums, at the national and at the local level, to promote negotiated settlements.

## RESETTLEMENT

Many land redistribution programmes in the world are hampered by very bureaucratic and slow approaches to resettling farmers once land has been acquired. For instance, attempts to plan and execute individual land reform projects centrally, whether by single line ministry or dedicated parastatal, invariably end up slowing down the process to a snail's pace. Centralising all aspects of land reform into specialised land agencies has usually not been able to speed up the process, as the examples from Mexico, Colombia, the Philippines, and Honduras show. Instead, the 'one-stop land reform shops' have spawned costly and paternalistic bureaucracies. Alternatively, several ministries have to work closely together, which is also very difficult to coordinate.

Whatever the land acquisition method, much can be done to redistribute and resettle land in a faster and less bureaucratic way. Bureaucratic processes can be streamlined but, most importantly, they can be decentralised and driven by the beneficiaries themselves.

Decentralisation should imply that the beneficiaries of redistribution should have much more say in the way in which resettlement – *their resettlement* – is carried out. For instance, it is eminently sensible to give beneficiaries much more say in how the farm will be planned, what services will be needed, and who should provide these services. Why not give beneficiaries the choice as to who should help them plan the farm, provide access roads, ensure water supply and so on, for example by giving them the financial resources to procure these themselves? These services can be provided by government ministries, but there may be private sector providers or NGOs that can deliver these services better and more cheaply. Why not allow much more flexibility in how this is done? Why not allow much more community participation and decentralisation? Why not allow for much more private sector and NGO involvement? Why not define national standards on how this should be done, but decentralise implementation and supervision to the local level?

Central ministries often resist decentralisation on transparency and accountability grounds. It is often felt that the requirement of ministerial approval ('vertical accountability') reduces opportunities for collusion and corruption with regard to the selection of beneficiaries and/or the farm price. In practice, ministerial approval of individual land reform projects always

results in long delays, while it is unclear how the minister would obtain the necessary information to detect opportunistic behaviour at the local level. Decentralisation, on the other hand, speeds up decision-making, but could indeed lead to more corruption if the 'vertical' accountability is not replaced by more 'horizontal' and 'downward' accountability. Such horizontal accountability could be achieved by stakeholder participation (government and non-government) in the decision-making process.

In South Africa, the first land redistribution programme – supported by SLAG – adopted an implementation strategy under which each project needed the approval of the Minister of Land Affairs. This approval would in turn largely be based on a perusal of farm and business plans drawn up by consultants hired by the ministry. As a result, the programme took considerable time to take off and reach significant numbers, and became consultant-driven. Many of the business plans may have looked quite compelling on paper, but were not 'owned', or even understood, by the beneficiaries themselves.

South Africa's restrictions on subdivision caused many problems for the land redistribution programme. SLAG was based on a fixed grant per beneficiary family, set at R15 000 initially, and later raised to R16 000. Because the land market did not have any R15 000 plots on offer, beneficiaries were forced to pool their grants together to be able to purchase the large farms available on the market. This led to the more entrepreneurial beneficiaries putting large groups together with the sole purpose of reaching the required farm price. This became known as the 'rent-a-crowd' phenomenon.

Failure to subdivide also created problems for the choice of property rights by the beneficiaries. When the title deed to a large farm had to be legally transferred to the beneficiary, it was administratively easy to transfer it to a group of beneficiaries as one title deed. Instead of beneficiaries choosing the type of legal entity under which they would hold the land, which should have led many to opt for individual title or shares, the Department of Land Affairs steered the beneficiaries towards the newly legislated Communal Property Associations (CPAs). There is, of course, nothing 'wrong' with common property (Netting 1976; Bromley 1992; Van den Brink, Bromley & Cochrane 1994). But the practice of creating CPAs became so widespread that practice turned into *de facto* policy. This restrained beneficiaries' freedom of choice and forced them to participate in often complex group processes.

In addition, given the dearth of small family farms on the market due to the subdivision restrictions, many groups had to acquire large, often capital-intensive farms. South African consultants would then proceed to draw up business plans which attempted to continue the operations of the large commercial farm as a collective farming enterprise, ignoring the voluminous and consistently negative international experience with collective farming (Deininger 1995). Again, there were no explicit policy instructions to this effect, but in no project was the farm ever subdivided – using the policy exemption granted to do so under the land reform legislation – into individual family farms of a size that the beneficiary families would be able to manage comfortably by themselves. As a result, these land reform projects subjected the beneficiaries to unfortunate attempts at collective farming, in some cases managed by the previous farm owner at a fee. Repeating international experience, these attempts at collective farming invariably failed, or were prevented from failure only through intensive and unsustainable care by NGOs. Most of the members of the groups see few, if any, benefits. Many beneficiary groups are now saddled with complex problems of reorganising and reconstituting the membership, as some members lost interest.

A land redistribution programme which attempts to change an agrarian structure such as the one in South Africa, which is completely dominated by large farms, will need to be flexible enough to ‘fill in’ a large spectrum of farm sizes. It will need to accommodate peri-urban gardens, medium-scale commercial farms, irrigated vegetable plots, as well as small livestock ranches. It will need to cater for poor, vulnerable and marginalised groups as well as emerging commercial farmers.

The design of LRAD attempts to incorporate this flexibility, both by allowing a sliding scale of grants and by allowing projects to allocate more or less funding to land acquisition, or more or less to agricultural development of that land. While purely residential projects are not supported under LRAD, but by SLAG, beneficiaries seeking to establish household gardens at their new residences can be supported. In addition, beneficiaries can use the LRAD grant to participate in so-called equity schemes and become shareholders in existing agricultural enterprises. Farm workers can use LRAD to participate in employee-ownership schemes. Other beneficiaries enter LRAD to engage in commercial agricultural activities. They access the grant and combine it with normal bank loans, approved under standard banking procedures, and their

own assets and cash to purchase a farm. Finally, while many people living in communal areas already have secure access to agricultural land, they may not have the means to make productive use of that land. Such people would be eligible to apply for assistance to formalise their tenure and make productive investments in their land.

The lessons learned so far during the implementation of LRAD and SLAG-supported projects suggest that the flexibility in design has not always resulted in flexibility in practice. For instance, officials and consultants enter bilateral agreements during project preparation, sometimes completely sidelining the beneficiaries. The government officials, not the beneficiaries, present the project proposal to the Provincial Grant Committees for approval. And even though beneficiaries are free to choose their legal entity, including individual title on subdivisions, the majority of beneficiaries applying as a group have been steered towards CPAs and trusts, even under LRAD. Again, there is nothing inherently problematic with these forms of ownership, but one would have expected a wider variety of legal entities if beneficiaries were truly empowered to make these decisions.

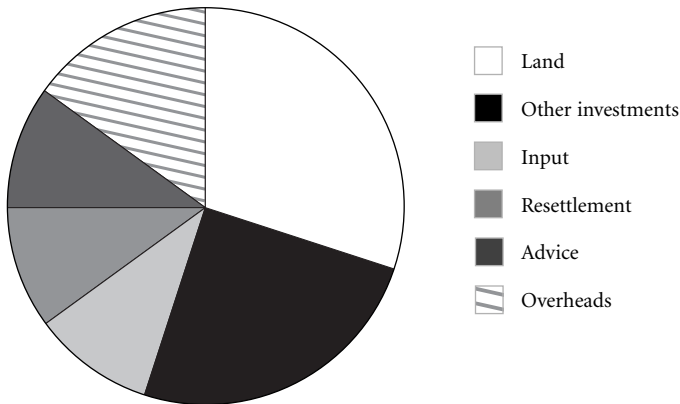
Finally, community procurement of goods and services has not yet been allowed under the programme. This means that all procurement has been undertaken by the government, including the selection of design agents and technical advisers, and the purchase of agricultural inputs and assets. The lack of community procurement has made scaling-up of the programme very difficult, if not impossible. It has also constrained the flexibility of beneficiaries to make their own choices, and disempowered them.

### *Land reform is usually underfunded*

The most important lesson from experience is that much more than just the land needs to be funded for land reform to be successful within a reasonable time frame, say five to ten years. International experience shows that in a typical land reform project, the land costs are only part (30 to 40 per cent) of the total costs of land reform (see Figure 7.3). The other costs, which are essential to the success of the undertaking, include the costs of housing, resettlement, start-up grants, inputs, tools, equipment, farm development, training and advisory services, and the overhead costs of the management of the land reform programme. The relative importance of each of these 'slices'

varies depending on the particular livelihood created. A homestead for a rural artisan or worker, with a small vegetable plot but close to town, will need to pay more for the 'land slice' of the project than for, say, equipment and farm development. A beneficiary who wants to acquire a farm which has already been substantially developed will have a much bigger land-cost slice than one who acquires a piece of undeveloped land.

**Figure 7.3** *Land as a proportion of the costs of a typical land reform project*



Source: Authors' own estimates

What are the options for financing land reform? One way of approaching this question is to look at the various stakeholders who could pay for land reform: (i) the beneficiaries themselves; (ii) current landowners; (iii) former colonial powers; (iv) donors; and (v) the government.

#### BENEFICIARIES

Almost all land reform programmes in the world have asked the beneficiaries to contribute to the costs of land reform. This happened either explicitly (through cash, sweat equity and loans) or implicitly (by simply dumping beneficiaries on the land without any support). To ask beneficiaries to contribute towards the costs of land reform makes sense. Requiring an own contribution will help to self-select people who are actually willing and able to run a farm. But this should be done within limits, so as not to exclude the poor

or saddle the new farmers with too much debt. Their loans should not exceed a certain value of their assets. While this limit depends on the profitability and riskiness of the particular farming system adopted, a reasonably robust international 'rule of thumb' is that the loans need to stay below about 30 per cent of the value of assets (the so-called 30 per cent debt–equity ratio).

#### LANDOWNERS

In Latin America (e.g. Mexico, Colombia, Central America, and Bolivia), expropriation below market value has been used by governments to force landowners to contribute to the costs of land reform. Compensation for land was often paid for in land reform bonds, which could not be traded and had low interest rates.

Not surprisingly, owners therefore fiercely resisted land reform. In addition, most of the Latin American land reform programmes were chronically underfunded and therefore proceeded at a snail's pace (e.g. Mexico). Because these programmes provided almost no finance beyond land and some housing, agricultural success was therefore very slow in coming.

Expropriation is a useful approach as part of an overall land reform strategy, but expropriation does nothing to reduce the land cost. Rather, it tends to increase it, because of the likelihood of litigation. Only outright confiscation reduces the land costs, but it has many other undesirable consequences, such as a reduction of investor confidence. This in turn can easily lead to a devaluation of the currency, imposing the costs of land reform on the entire nation. Unless strong legislation is in place which limits the power of former owners to go to court to block the expropriation, it will also slow down implementation. Alternatively, expropriation can be managed in a chaotic way as in Zimbabwe. Having landowners contribute to the costs of land reform by imposing a land tax on the value of the unimproved land is politically and economically perhaps more attractive.

#### DONORS

Former owners in Kenya and Algeria were compensated for their farms by Great Britain and France. In Kenya, a World Bank loan financed complementary investments, inputs and overhead costs, and the land reform

was highly successful. In Algeria, little complementary finance was available, leading to much-reduced success rates. After the end of the Cold War, many donors professed a willingness to finance land reform programmes, but few have done so. The World Bank is an exception to this, currently funding programmes in Brazil, Guatemala, India, Malawi and the Philippines. Until recently, most donors, including the World Bank, would not pay for the land, but only for the other costs. The World Bank has now changed that policy and India and Malawi are among the first countries in which land is actually financed.

#### GOVERNMENT

International experience shows that a sound financing plan must first rest on own fiscal resources. In the South African case, the prospects for this look good. Based on estimates of current budget trends, South Africa's fiscal support for land reform is increasing significantly. In the current three-year national Budget, the 2007/08 land reform budget rises to R5.7 billion. If we assume that this level of financing is not reduced until 2014 (the year by which the 30 per cent target needs to be reached), a cumulative budget of R56 billion will be available for land reform. Estimates of the total costs based on the current land reform costs per hectare put the total at around R35 billion. However, as explained earlier, the non-land costs are underfunded in the current programme. Another way of demonstrating that the projected fiscal resources for land reform seem 'in the right ballpark' is to start with the value of commercial farm assets and to take 30 per cent of that. This would amount to about R30 billion.<sup>28</sup> This value constitutes more than just the land, because it also includes houses, buildings and fixed improvements.

The adverse consequences of inadequate finance are severe, including slowing down implementation, creating strong political resistance from landowning classes, and undermining the chances of success of the settlers – consequences we have already seen in South Africa. Instead, adequate financing by the government can be used to leverage additional financing by beneficiaries (by allowing them to borrow safely and increase their productivity), donors, and landowners. Fortunately, South Africa's recent land reform budget trends put the national targets within reach. International experience shows that, on the basis of this commitment, an effective partnership with stakeholders can be built.



*Large farmers will lobby against land reform*

We have argued that economies of scale in agriculture cannot explain the emergence of agrarian structures based on large-scale farms. In fact, as Binswanger, Deininger and Feder (1995) demonstrate, these agrarian structures have historically emerged as the result of coercion and distortions by the politically powerful. Even today, large landowners represent a powerful political force in many countries, able to influence government policy profoundly and extract subsidies. Locally, their political influence is often very direct by being able to influence the votes of their farm workers or tenants.<sup>29</sup> Large farmer lobbies in southern Africa are, in general, opposed to a substantial restructuring and downsizing of the agrarian structure of commercial farm areas.

We have said that removing the land market distortions and the subsidies conferred to large farmers through other markets (e.g. for outputs and credit) improves the role of land markets in the redistribution of land from large to small farmers. After 1994, South Africa liberalised agricultural marketing and reduced most subsidies to commercial farmers to very low levels in one of the most complete agricultural liberalisations in the world – the political transition of 1994 allowed a substantial liberalisation of the agricultural sector.

However, other restrictions remain, demonstrating the considerable political power of the large farm lobby in South Africa. One can hardly find a better demonstration of the strength of the large farm lobby in southern Africa than the fact that neither Zimbabwe nor South Africa relaxed their subdivision rules or imposed a land tax after independence.

If there were uncertainties about compensation, the position of the farm lobby would be understandable and rational. Compensation uncertainties present personal financial risk, and influence expectations, which immediately reduces land prices. However, there are other reasons for the large farmer opposition to land reform, including a reluctance to integrate poorer African neighbours into a more racially integrated farm community. Instead of viewing integrated rural communities as providing increased long-term security, parts of the white farming community in southern Africa view an influx of African families as causing more insecurity, given their experience with large farms that border the former homelands and that are often prone to theft and vandalism.

Political theory and history suggests that these anti-land reform lobbies may switch strategy only when they perceive that a large-scale land reform

programme is the price they have to pay for peace. Unfortunately, by then the situation may already have deteriorated to such an extent that an 'orderly' land reform programme will have become impossible, as the example of Zimbabwe so amply shows.

Fortunately, the recent events in Zimbabwe have convinced a growing number of stakeholders that the status quo in South Africa is unsustainable. More private initiatives are being launched with the objective of promoting land reform and emerging African farmers. These initiatives come from a number of producer associations, NGOs and commercial banks. At the same time, some stakeholders at the local level are also starting to think about working together to achieve integrated land reform implementation plans in their municipalities or districts. So far, however, the government has not systematically tried to incorporate these initiatives into an institutional framework which consistently promotes dialogue, consensus-building and partnership in planning and implementation.

Finally, it should be mentioned that a lobby exists that is not so much interested in cutting up and subdividing large farms as it is in changing the ownership of the large farms. This is the so-called 'same car, different driver' lobby. While they may not be opposed to land reform for small farmers per se, they would also argue that room must be created for large-scale farms owned and operated by African commercial farmers. Clearly, in southern Africa this group represents a strong 'nationalist' sentiment that the commercial farm sector itself should be deracialised. It would make a lot of political sense to accommodate this group rather than exclude it. In this way, the land reform process becomes more inclusive and may benefit from a much broader political base. What would become problematic, though, is if this particular group were able to torpedo the wider land reform agenda, or successfully lobby *for* their installation as 'telephone farmers' (absentee landlords) and continued farm and credit subsidies and other discriminatory policy distortions, and lobby *against* the introduction of a land tax and the relaxation of subdivision rules. If the government's social objective is to achieve equity and efficiency in farming, such a lobby would be counterproductive.

### *Policy recommendations*

An internally consistent land reform strategy should have the following pillars: (i) it should boost land market forces that could redistribute land from the rich to the poor; (ii) it should improve on the processes of land acquisition and resettlement; and (iii) it should create consensus around the implementation strategy, together with stakeholders. In the remainder of this chapter, some more detailed, concrete policy suggestions are identified, with a particular emphasis on South Africa.

#### *Land market reforms*

We have argued that in many countries, land markets – as they are currently designed – cannot be counted on to redistribute land from the rich to the poor. That, however, does not mean that land markets should not play a far greater role in land reform than they often do now. In fact, irrespective of which land redistribution approach is taken, better performing land markets will make the land reform process work better, faster and more cheaply.

Recall that the price of land in the market reflects the value of the income stream from agriculture *plus* its value as an asset, such as, for example, a hedge against inflation or its speculative value – conversion into residential property, a new road, etc. Poor farmers will be able to afford to pay only the agricultural value, and will therefore be outbid by the rich in the land markets. To counteract this disadvantage, several policy reforms need to be undertaken.

First, as in South Africa, it is suggested that all distortions and subsidies be removed that favour large farmers only (because they will find their way into the land price, for example a special mortgage interest rate subsidy, or a subsidised input or output price only accessible to large farmers given certain marketing arrangements). Second, it is recommended that targeted grants or subsidies be provided to the poor and other aspiring family farmers to purchase land. And third, subdivision restrictions should be removed and a progressive land tax should be put in place – in essence a user charge for land. In other words, it is imperative to level the playing field in agricultural and related markets between large- and small-scale farmers, boost the purchasing power of the poor, and eliminate the incentives for the wealthy to hold land for non-agricultural purposes.

When beneficiaries are given a grant to purchase land, it will be important that the land market supply farms in sizes that correspond to the grants. Otherwise, substantial transaction costs are imposed on the beneficiaries because they need to organise themselves and pool their grants to purchase large farms. The land market will need to work in such a way that a supply of 'grant-sized', small farms is available. It should be relatively costless to subdivide the farm (or that part of the farm that the group has decided should be individualised) after purchase by a group of beneficiaries. Part of the full costs of subdivision could be borne by the government.

One needs to be mindful of the price-raising effect that land purchase subsidies have, if they are given on a substantial scale. In that case, it becomes even more important to ensure that the market can deliver farms of various sizes. This implies that subdivision rules need to be relaxed; that large farm subsidies are eliminated, since they raise the price of land; and that there is a financial incentive for large farmers to sell unused land (a land tax).

It is important to understand that a land tax is different from a property rates tax. The ideal land tax would tax the potential agricultural profits from a particular piece of unimproved or unused land. Unlike a property rates tax, a land tax would not tax the value of investments on that land, or the value of the farmhouse erected on that land. Taxing investment in agriculture is probably the last thing a government should want to do in the context of a land reform programme. A land tax supportive of land reform could be flat or progressive, and would exempt small farmers from making significant tax payments, if any.

A land tax must be simple to administer, leave no loopholes, and have little room for discretionary valuations of the farm. One way of achieving this is to use existing agro-climatic zones as a proxy for potential agricultural profits, and to set different land taxes for different zones. Taxation within a zone would then be imposed on a simple per hectare basis, without any exceptions or exemptions. In theory, it is possible that tax brackets are defined in such a way that almost all truly productive farms are exempt from taxation. Such a tax would reduce the speculative land price premium and release unused land to the market. Finally, the land tax revenues could be both a source for local government revenues and the financing of land redistribution.

*Land acquisition methods*

## DEVELOP A MENU OF LAND ACQUISITION OPTIONS

The overall policy objective would be to have a ready set of complementary land acquisition methods that have been tested and made operational. For instance, even if a government decided to pursue expropriation as its main strategy, it would be prudent to have the alternative of community-driven land redistribution at hand, to give government and landowners an alternative option to avoid litigation. This is sometimes referred to as the 'sandwich' or 'stick-and-carrot' approach. An improved policy framework would thus consist of a package of at least three options for land acquisition: compulsory acquisition, market-assisted or community-driven land acquisition, or negotiated land transfers. Governments should add variants, adapted to local circumstances, of these options to their 'tool kit' and start a 'learning-by-doing' process, flexible enough to be scaled up when good results are obtained.

In implementing compulsory acquisition pilots, the government could test, and improve on, the Expropriation Act of 1975, ensuring that it is consistent with the Constitution. It is also advisable to find a legal mechanism which transfers the ownership directly, or almost directly, from the former owner to the beneficiaries and avoids a lengthy transfer of ownership during which the state has to ensure the security of the asset 'in transit'.

## MAKE ACQUIRING SUBDIVISIONS EASY

Compulsory, market-assisted and negotiated land acquisition methods all need to be able to acquire subdivisions, rather than whole farms. In many cases, the state will not be interested in acquiring the whole farm for redistribution, but rather a part of it, leaving the farm owner with the part that originally was used for residential and intensive farming purposes. This method of acquisition has several advantages. First, it has the advantage of causing the highest possible increase in agricultural production. Very little existing production is disturbed, while unused land is brought into production by the new, small-scale settlers. Second, it avoids costly experiments by beneficiaries to attempt keeping the commercial parts running under collective farming arrangements. Third, it saves on acquisition costs by not acquiring what is

probably the most expensive part of the farm, and also the part of the farm initially least likely to be effectively used by small-scale farmers. And fourth, acquiring subdivisions would create new farm 'neighbourhoods' in which the new neighbours may be able to work together and help each other. Such new neighbourhoods will have substantial political benefits, in particular if there is a history of antagonism between classes or races.

### *Resettlement models*

#### DECENTRALISE DECISION-MAKING

South Africa's experience with land redistribution since 1994 confirms the international lessons that underline the need to decentralise and make programmes more community-driven. South Africa's flagship redistribution programme, LRAD, made the important step of decentralising decision-making down to the provincial level, and reaped immediate benefits with regard to speed and the quantity of projects. The logical next step is to decentralise even further to the district level, followed by further decentralisation down to the municipal level. As the approval of land reform projects gets further decentralised to the district and municipal levels, and as beneficiaries, officials, and stakeholders become more familiar with exploiting the flexibility of the LRAD policy, redistribution will become faster, cheaper, and more in line with local conditions and the capacities and needs of the beneficiaries.

#### STRENGTHEN ACCOUNTABILITY

As vertical accountability is relaxed, horizontal and downward accountability and integration between programmes should be strengthened. All land reform programmes should be channelled through the same screening and approval processes. These processes should be managed by multi-sectoral committees at the local government level that allow for stakeholder participation. The land reform programmes can then become integral parts of the local development plans, which in South Africa are the basis for local development budgeting and implementation. District Land Reform Committees could be constituted as subcommittees of the district councils.

#### ALLOW COMMUNITY PROCUREMENT OF GOODS AND SERVICES

In South Africa, land reform and many other development programmes which attempt to deliver services in a decentralised fashion suffer from the prohibition on community procurement which the Public Financial Management Act of 1998 seems to have placed on procurement procedures. The restrictions are the result of an unduly conservative interpretation of this Act, preventing the direct transfer of public resources to communities. In fact, there do exist government programmes which have practised transfers of funds to communities without running foul of the Act. In order to accelerate and improve the LRAD programme, however, community procurement needs to be introduced. Communities would be allowed to manage resources directly, following simple and transparent rules, such as gathering three quotes before purchases are made and documenting democratic decision-making with respect to procurement decisions.

#### PILOT A 'DEVELOPER' MODEL

Some beneficiaries would prefer to go it alone, and not as part of a group. The policy recommendation is to pilot a redistribution approach led by a developer where this would make sense from a planning perspective. It could be used to fill in underused, but prime, areas close to urban centres, but also to settle contiguous, underused or derelict farms bordering on communal areas. A developer would then be brought in to assist the communities to restructure the farms, create subdivisions and common areas, put in basic infrastructure, and further develop the organisational capacity and agricultural skills base of the communities. In South Africa, the developer model fits well with the government's strategy to promote public-private partnerships. During the pilot phase, developers could benefit from a limited transactions-cost subsidy. However, developers should be fully privately financed if the pilots turned out to be successful.

#### *National implementation strategy*

As mentioned earlier, it would be in the interest of all stakeholders, especially the commercial white farmers, to participate voluntarily in the land reform process. This participation would be the price to pay for long-term social

and political stability. Already, we have pointed to the common-sense idea that it would always make sense to create ample opportunities to come to a negotiated or market-assisted transfer of land. Rather than slowing a government down in its goal to achieve land reform, voluntary transfer of land can accelerate implementation.

Clearly, large farmers worry about compensation, while governments have ideas about whether they should compensate for the farm as a whole, or only for the improvements. Again, these are issues to be debated at a national level in a democratic way. There are many ways of looking at this, and many ways of arriving at compensation that is fair to both sides. More damaging than anything else is uncertainty about the level of compensation or the timing of it. Simply put, people have to be able to get on with their lives and be able to plan. If they cannot, their lives and overall confidence in the economy will be affected. If that happens, investment falls, the currency depreciates, and everybody pays the price for this uncertainty.

At this point in South Africa's land redistribution efforts, the need for broad-based consensus around a national strategy for implementing land reform is obvious. A broad-based consensus is emerging among the various stakeholders that South Africa needs to solve its land question as a matter of urgency. What government needs to do now is build on this emerging consensus and involve stakeholders in dialogue around policy implementation. Stakeholders, including local government structures, farmers' associations, NGOs, and churches, can assist in a number of ways. They can identify urgent land needs, support beneficiaries in accessing the various land reform programmes, and provide technical assistance as demanded by the beneficiaries. NGOs and research institutions can provide valuable monitoring and evaluation services, and assist in policy improvement.

### *Conclusion*

This chapter looked at the controversy that surrounds the redistribution of property rights in land and reviewed South Africa's experience to date. There is consensus on the need to address the issue of highly unequal land distribution with a renewed sense of urgency. However, the debate on large versus small farms and the optimal land redistribution implementation mechanisms continues. These controversies spill over into the choice of the



beneficiaries (subsistence versus commercial) and into the preferred approach to land acquisition (compulsory versus market-assisted).

The controversy should not become an excuse for inaction. Therefore, the chapter suggests that all stakeholders agree to disagree *ex ante* on the optimal approach. Instead, we agree on a policy framework which allows a menu of options to be pursued, the results of which can then be evaluated as the programme proceeds, and corrections made when *ex post* evaluation shows some negative aspects. Rather than debating the pros and cons of each particular approach, we create a policy arena in which the particular models can show their relative performance in competition with one another. Of course, one needs to agree on the rules of the game, so that the performance of each model can be compared. In the short term, performance would be defined by the 'inputs' and 'outputs' of a land reform programme: the number of beneficiaries, the amount and speed of the land transfer, fiscal cost per beneficiary and per hectare, and the speed with which agricultural production is established and increased. In the medium term, the performance measures would include the 'outcomes': the reduction of tensions and violence in the rural areas, the increase in rural and agricultural growth, the reduction of poverty, and the improved environmental condition of the land.

The mid-term review of South Africa's redistribution programme suggests that: (i) major land market reforms still need to be implemented (with respect to subdivision, land tax and zoning); (ii) the LRAD programme is able to deliver land at a substantial rate and pace, but it is constrained by budget and insufficient decentralisation and empowerment of beneficiaries themselves; (iii) a 'developer' model should be put in place, under which a developer would restructure a large farm, developing a range of small farms to be acquired by beneficiaries; and (iv) consensus between the stakeholders around an overall implementation strategy needs to be reached. This consensus would clearly indicate and formalise the role of stakeholders in the various land reform programmes, allow for experimentation within the rules of the game, and also facilitate negotiated transfers of land.

The priority is to speed up and improve South Africa's land redistribution programme. The debates around the need for radical versus incremental change, or the relative merits of the various approaches, should not stifle and overshadow the discussions on the practical lessons that have emerged from the post-1994 experience.

This makes sense not just from a technical but also from a political perspective. The politics of land reform can result in costly inaction. One can think of worse things than a situation in which the various stakeholders in government, the private sector, and civil society agree on an overall framework for implementation and compete with each other on the ground to demonstrate the success of 'their' model. Major land redistribution can be implemented peacefully: history need not repeat itself *ad nauseam*.

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### *Notes*

- 1 Surplus Peoples' Project (SPP) in the Northern Cape and Western Cape provinces.
- 2 Starting with Chayanov in 1918, when he opposed Stalin's 'factories-in-the-field' strategy. His critique was based on his PhD research (1910) and that of other 'neopopulist social agronomists', which empirically documented the efficiency of peasant family farming (Chayanov 1966). Stalin quite literally eliminated Chayanov, his work, and millions of peasant farmers.
- 3 The World Bank, since the publication of its Land Reform policy paper in 1975, favours supporting small-scale, family farming rather than large-scale or plantation-type farming (World Bank 1975). Today, in many countries in the world, direct World Bank support often goes only to the small-scale farm sector.

- 4 These findings are well documented in the research literature. For instance, Binswanger and Rosenzweig (1995) show that small farmers get much higher rate of return to capital than large farmers. They also show that, despite being more efficient than large farmers, small farmers do not have profit maximising portfolios because they face significant risk, and have to use the sale of assets, such as draft animals, to deal with the consequences of risk. If small farmers could have profit maximising portfolios, their profits would increase by another 25 per cent.
- 5 Chayanov therefore called this the 'self-exploitation of labour'. Others have called it 'underconsumption' (Kautsky) and 'the plunder of labour' (Lenin).
- 6 See for instance Peterson (1997) and Kislev and Peterson (1982).
- 7 In the literature, the difficulty is defined as caused by heterogeneity, seasonality, and the resulting asymmetric information problem.
- 8 For instance, Deininger and Squire (1998: 260) find that only 2 of the 15 developing countries with a Gini coefficient for land higher than 0.7 managed to grow at more than 2.5 per cent per year during 1960–1992.
- 9 In the cases of Taiwan and China, the smallholder-based agrarian structures were created by land reform transforming tenants into owners. In the case of Thailand, 19<sup>th</sup>-century legislation had set a four-hectare limit on freely acquirable agricultural land, constraining the emergence of large estates and feudal tenancy relations.
- 10 Similarly systematic expropriations, and sometimes outright exterminations, of indigenous people took place in many other parts of the world. North and South America, Australia and Tasmania all suffered the tragic consequences of settler actions often justified under variants of Herbert Spencer's philosophy of 'Social Darwinism'. Many of these countries are today still wrestling with the aftermath of these human tragedies.
- 11 Many other brakes were put on development in the homelands. For instance, farmers were not allowed to produce certain crops and had to market through monopolistic marketing boards.
- 12 Individualisation is driven by the intensification of agriculture caused by population growth and increased market access (Boserup 1981; Bruce & Migot-Adholla 1993). Typically, communities start by individualising land into permanent residential and garden plots, then allocate individual rights to nearby fertile farming plots, and progressively extend individualisation to the remaining areas under community ownership until only wasteland and land for common infrastructure and facilities are owned by the community (Binswanger & Rosenzweig 1986; Binswanger & McIntire 1987). Many common property regimes will allow individual usufruct rights to a specific plot to become more permanent, often as a direct result of investments in the

land. In other words, the security of individual property rights is created by the act of investing, rather than the other way around.

- 13 One of the transitory phases in this removal was the phenomenon of 'labour tenancy' under which African peasants – the scarce labour factor – were allowed to reside, farm a plot, and graze cattle on the settler's land in return for a certain number of days' work. Labour tenancy occurs when labour, especially during seasonal peaks, is scarce, supervision capacity of the land owner is limited, and land owners have abundant land (Lastarria-Cornhiel & Melmed-Sanjak 1998). In Asia, in contrast, the more common form of tenancy is sharecropping, with land as the scarce factor.
- 14 The basic economic idea behind the 'settler economy' is the following: capital and good land is owned by the settlers, while the cost of unskilled, indigenous labourers is reduced by restricting their economic alternatives and creating a migrant labour system. Under the migrant labour system, only male adults are allowed to work and reside in the settler areas. The wage paid to the migrant labourer can now be below the amount he would need if his family were living with him, while his 'reservation wage' is reduced because of the poor agricultural profitability in the homelands, where his family resides.
- 15 The suppression of fire had similar negative results for the ecology of the grasslands of the prairie of North America (Licht 1997).
- 16 These data come from the website of the United States Department of Agriculture: <<http://www.ers.usda.gov/Briefing/FarmIncome/forenew.htm>>. In 2003, a large family farm was defined as a farm with farm sales between US\$250 000 and US\$499 999.
- 17 The absence of such high-intensity small-scale farming 'rings' around all of South Africa's cities is the direct result of apartheid, in the past, and the continued restrictions on subdivision and the absence of a land tax (leading to unused peri-urban land for speculative reasons), in the present. These distortions are discussed later in the chapter.
- 18 Using comparable consumption aggregates from the Income and Expenditure Surveys.
- 19 One explanation of this trend is as follows: in the commercial farm areas (86 per cent of the total area) the legacy of apartheid often strains labour relations. Expansion of agriculture means expansion of the labour force, and this is accompanied by increased supervision problems – not a preferred option for many white farmers. And the commercial farmers' expectations that the post-1994 government would provide increased protection against eviction of labour tenants and farm workers often resulted in their pre-emptive expulsion. These expectations proved to be true, and while exact numbers are not available, anecdotal evidence suggests that the eviction of labour tenants and farm workers has been quite dramatic.

- 20 For an analysis of this land-price wedge in South Africa, see Van Schalkwyk and Van Zyl (1996).
- 21 A similar 'viability' logic was followed in the pricing of agricultural products in apartheid South Africa. An income target is set, a preferred (i.e. capital-intensive) technology is chosen, and then the state is asked to guarantee the resulting 'cost plus' output price. That price would then be protected by not allowing cheaper imports in years of low production, and not allowing the domestic market to clear in years of high production, when arbitrarily declared 'surpluses' would be exported at a state-subsidised loss.
- 22 Currently, a farm, or a subdivision of a farm, needs to have the potential to produce a net income (gross margin) of R24 000. This is translated into farming on 60 large stock units, 20 hectares of irrigation land or 100 hectares of dry land. These minimum sizes are too high and inconsistent with the government's land reform strategy.
- 23 A new rationale to prevent subdivision is environmental. The underuse of arable land, or its conversion into private forests, game farms and nature conservancies is sometimes seen as promoting the environmentally sustainable use of natural resources. This perspective leads some environmentalists to oppose subdivision and land taxation, as this would provide the owner with an incentive to make more profitable, which may mean more intensive, use of the land. There are solid arguments in favour of conservation and the sustainable use of natural resources. But in accepting the current unequal distribution of assets, and income, as a given, the new rationale against subdivision and land taxation seems merely to promote the opulence of large landowners as the best strategy to conserve the environment (Daniel W Bromley, Professor of Applied Economics, University of Wisconsin-Madison, personal communication June 2004).
- 24 The Brazilian approach to expropriation is as follows. Each district has a specific reference farm size calculated as '15 modules', with one module defined as the 'viable' family farm. This allows for a wide variety of reference farm sizes depending on the agro-climatic zone the district is in. Note that subdivision below half a module is not permitted, and farms up to 15 modules cannot be expropriated. If a farm is above that reference farm size and declared unproductive, the government can potentially expropriate it. A farm is declared unproductive when, after deducting the area that cannot be cultivated (e.g. rocky land), 80 per cent of the remaining area is cultivated at a yield which is below the average yield for that district.
- 25 Note that the case for compulsory acquisition cannot be based on cost-savings. The international principle governing the compensation issue is that of 'fair' compensation, which will invariably also be reflected in national law. In practice, the

courts will interpret this to mean a value which reflects the market value, or something close to it. Moreover, official value estimates, even when they value land improvements only and not the soil itself, are usually quite generous.

- 26 However, when defining compensation the 1975 Act makes reference to market value plus an additional compensation: *solatium*. The latter would be to also compensate the owner for 'suffering'.
- 27 During 2001/02 and 2002/03, the average grant size per beneficiary was R27 696, only about R7 500 above the minimum grant, while the distribution of grants followed a pro-poor pattern for the grants administered by the Department of Land Affairs. The pattern for the Land Bank-administered grants showed that the prospective farmers targeted by the Land Bank benefited from a higher than average grant, consistent with its targeting objective.
- 28 The value of total commercial farm assets in 2002 was R98.4 billion, and 30 per cent of R98.4 billion is R30 billion. See <<http://www.statssa.gov.za/publications/Report-11-02-01/CorrectedReport-11-02-01.pdf>>. To put this number in perspective: current spending on social welfare per year is R73 billion.
- 29 But this influence may also turn against them. The radical nature of Zimbabwe's Fast Track Land Reform Programme, as illustrated by the government's refusal to negotiate a compromise with white farmers or to take any interest in the fate of the affected farm workers, was often rationalised by senior ZANU-PF (Zimbabwe African National Union-Patriotic Front) leaders as the appropriate punishment meted out for supporting the opposition in defeating a popular referendum on a new Constitution in 2000.

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## 8 *Struggling for a life in dignity*

Mercia Andrews

Land provides the basis for all human life. Land, appropriately called Mother Earth by all the natives of the Americas, feeds us: men, women, boys and girls; and we are deeply bound to her...We therefore reject the ideology that only considers land as merchandise. (La Via Campesina, Declaration of the International Meeting of the Landless in San Pedro Sula, Honduras, July 2000, cited in Borras 2004a: 7)

### *Introduction*

South Africa has just completed its first decade of democratic rule and, as with any young democracy, it is essential that one regularly reviews and reflects on the achievements and policies set by government for the transitional phase of the past period. However, it is also important to draw a balance sheet of the shortcomings and ask what creates the problems and obstacles. The Trust for Community Outreach and Education (TCOE) tried to do this in December 2003 when it organised a Tribunal on Landlessness. The tribunal brought together hundreds of rural people to testify about their concrete experiences and their struggles to access a piece of land so that they could live in dignity (TCOE 2003a). These testimonies were supported by research as well as other documentation. It was an attempt by the organisation to create a public space where ordinary rural men and women could articulate their struggles and have an opportunity to share their problems directly with government officials and policy makers.

All the cases presented at the tribunal highlighted the fact that the task of transforming rural South Africa and undoing 50 years of apartheid laws, migrant labour, segregation and repression, let alone centuries of colonial underdevelopment, was enormous. There is no doubt that the challenges facing the country are complex. As one of the 'judges', Fred Hendricks, put it:

‘To address the historical legacy...the government will require extraordinary measures’ (TCOE 2003a: 33). The testimonies also told another story – one that we in TCOE believe is not clearly understood or sufficiently engaged with by our government. For many of the participants at the tribunal, the struggle for land was not simply a livelihood issue. As the Via Campesina quotation suggests, for most rural people land is an all-embracing resource. Land is linked to a life of dignity and to culture: ‘Land is a source of life and well-being (*impilo*). It supports crops that feed the family, livestock that provide milk, meat and ancestral sacrifice...there is no home without land’ (*AFRA News* 2004: 3).

For the past ten years the debate between government and land-rights activists has centred on the need to put in place a legislative and policy framework as well as measures that can address the vast inequalities that are reflected in underdevelopment, extreme poverty and exclusion. Those of us who have been working in the countryside over the past decade readily acknowledge that the African National Congress (ANC) government inherited very skewed landholding ownership patterns based on the 87 per cent–13 per cent divide. Inequality in land distribution and ownership – the result of the process of colonial dispossession and racist legislation, most notably the 1913 Natives Land Act – was consolidated into a system of national oppression for the African majority. This system was further entrenched by the apartheid regime, which created a dual system of agriculture that was by 1994 translated into approximately 55 000 highly skilled, white commercial farmers and thousands of small subsistence producers producing mainly for household consumption and survival on very small allotments in the communal areas. For decades, commercial agriculture was highly supported and subsidised by the apartheid regime, which also allowed commercial agriculture to suppress and exploit farm labour. Subsistence agriculture, on the other hand, was forced into conditions that led to overgrazing, deforestation and insecurity.

Rural municipalities, when compared with their urban counterparts, lack the infrastructure, human resource capacity and the financial resources necessary for the provision of basic services. Unlike their rural counterparts, urban municipalities are able to generate income from municipal rates and taxes paid by the residents and industries they service. Most rural municipalities are therefore dependent upon the coffers of the National Treasury to deliver even the most basic of services in the countryside. The Poverty and Inequality

Report commissioned by Thabo Mbeki found, in 1996, that 71 per cent of people in rural areas live in extreme poverty. At the tribunal, this view was supported by the historian Martin Legassick, who argued that landlessness and unemployment are the main reasons for the abject nature of rural poverty (TCOE 2003a). Today more than 45 per cent of South Africans continue to live in the countryside and remain dependent on remittance from social grants or support sent from those who work in the cities or towns. It is against this backdrop that the government's land reform policy has to be evaluated.

### *The implications of market-led land reform and post-settlement support*

Government's land redistribution and restitution policies, which are based on a 'willing buyer, willing seller' framework, have attempted to introduce a landownership mechanism for those who were historically dispossessed. A system of grants and loans available to the rural poor and other previously dispossessed serves as the main means to deal with the unequal distribution of land on the one hand and, on the other hand, simultaneously to introduce into the market a new class of African commercial farmers. The policy framework is modelled on the premise that it will stimulate a 'land market, increase economic efficiency, improve the financial markets and create a convertibility between land and capital' (Negrao 2002: 7). It is consistent with the government's broader economic policy, formulated to facilitate South Africa's integration into a globalising free-market world economy.

This market-led land reform programme must therefore be seen as part of an economic policy framework to drive rural growth and development. It has to be looked at in conjunction with all the additional packages and economic strategies that have emanated from the Ministry of Agriculture and Land Affairs and other state departments. Some of these strategies are put into operation by parastatals like the Land Bank and the Independent Development Trust. These have a basket of products and mechanisms that include loans, the government's Integrated Sustainable Rural Development Programme, support to small, medium and micro enterprises or initiatives such as public-private partnerships and agribusinesses. The objective of all these implementing strategies is to support and advance rural development as well as to change the face of agribusiness in South Africa. In addition, they aim to provide the incentive for investment in rural areas and to promote the use of

a land market for economic growth. However, in the main, these institutions continue to serve existing and established commercial farmers, only benefiting a tiny layer of small producers and new entrants into agriculture.

Evidence from research and from the figures supplied by the Department of Land Affairs (DLA) suggests that only a very small percentage of new African farmers will enter into mainstream agriculture. The vast majority of landless people continue to live in abject poverty and survive only on the margins of our society. A market-led land reform cannot create the conditions or the environment that will enable the rural poor to reverse the injustices of apartheid and colonial dispossession. This is confirmed by the inadequate budgetary allocations made available annually by the National Treasury. Added to this is the fact that the government has assured commercial agriculture and South Africa's vigilant white community that land reform will not entail any forcible transfer or expropriation of land.

Given these constraints, it is unlikely that land reform, as it is currently constituted, can significantly overcome food insecurity and rural impoverishment. One of the main policies, the Land Redistribution for Agricultural Development (LRAD) programme, is aimed at the development of commercial farmers as opposed to broad-based food production and the creation of sustainable livelihoods through the sale of surplus produce on local markets.

For land reform to fulfil a redistributive function at an economic, political and social level, an alternative vision and programme for agrarian reform in South Africa is urgently needed. By redistribution one implies not simply shifting pockets of land from white commercial agriculture to a few African farmers, but fundamentally changed power relations and landholding patterns in the rural areas.

### *Market-led land reform versus state-led land reform*

Given the legacy of colonialism and apartheid and the unequal landownership patterns, it seems improbable that the 'hidden hand' of the market can be a sufficient basis for resolving the land question and centuries of national oppression. The market has a different set of objectives; redistributive justice and equality are not high on its list of priorities. The market is driven by a profit motive and in the case of South Africa it has as its key objective the stability and maintenance of the status quo in commercial agriculture. It is

in this context that we must critically examine the government's land reform programme and ask whether the intention is to redistribute substantially land to the landless or merely to open up the market for a non-racial commercial agricultural class.

The economic, political and historical imperatives can only be met by a land reform programme in which the state plays a greater role and allocates more resources – but this has not received government support. Institutions like the Land Bank and the Development Bank of Southern Africa, which played a key role in supporting and enabling the growth of white commercial agriculture in the past, have been slow to transform themselves into being a resource at the disposal of the rural poor. Instead, our government has opted to implement a market-led land reform programme that treats land simply as an economic product that can be traded on the open market.

This approach is very much in line with the government's macroeconomic programme called Growth, Employment and Redistribution (GEAR), which is modelled on the International Monetary Fund (IMF) and World Bank's stabilisation and structural adjustment programmes, which have been applied in many parts of Africa with disastrous effects. Based on neo-liberal free-market policy prescriptions, GEAR frames other social and sectoral policies, including land reform.

In many parts of the world, including Asia, Latin America and Africa, the World Bank has supported a market-led model of land reform. It has argued that the state-led land reform programmes of the past have failed because the methods of acquiring land were largely 'expropriatory and coercive' and that this has caused major tensions between the state and landowners and has led to corruption and the undermining of the reform process (Borras 2004b). Negrao (2002) makes the point that the shift to neo-liberal land reform programmes was ushered in by the World Bank after the poor economic performance in Africa at the end of the Cold War, which resulted in an increase in foreign debt and therefore dependency on IMF and World Bank support and the imposition of economic restructuring.

Borras (2004b) compared the impact of market-led agrarian reform (MLAR) programmes in the Philippines, Brazil and South Africa and developed the model in Table 8.1, which draws a useful comparison between state- and market-led land reforms as articulated by the proponents of MLAR.

**Table 8.1** *Key features of state- and market-led approaches based on pro-market explanations and claims*

Issues	State-led	Market-led
<i>Getting access to land</i>		
Acquisition method	Coercive; cash-bond payments at below market price, and so landlords oppose it, resulting in policy failure	Voluntary; 100% cash payment based on 100% market value of the land and so landlords will not oppose
Beneficiaries	Supply-driven; beneficiaries state-selected and so includes economically non-efficient and non-competitive households	Demand-driven; self-selected and includes only households that are economically efficient
Implementation method	Statist and centralised; transparency and so accountability low	Privatised and decentralised; and so a high degree of accountability
Pace and nature	Protracted; politically and legally contentious	Quick; politically and legally non-contentious
Land prices	Higher	Lower
Land markets	Land reform causes/ aggravates land market distortions; progressive land tax and land titling programme not required	Land reform stimulates land market; progressive land tax and titling programme required
<i>Post-land transfer farm and beneficiary development</i>		
Programme sequence; extension service	Farm development plans after land redistribution; protracted, uncertain and anaemic post-land transfer development; extension services statist and centralised (inefficient)	Farm development plans before; pace of development and redistribution quick; certain and dynamic post-land transfer development; extension services privatised and decentralised (efficient)
Exit options	None	Ample
Credit and investments	Low credit supply and low investments	Increased credit and investments
<i>Financing</i>		
Mechanism	State 'universal' subsidies; sovereign guarantee; beneficiaries pay subsidised land price; 'dole-out' mentality among beneficiaries	Flexible loan-grant mechanisms; co-sharing of risks; beneficiaries shoulder full cost given via grant; farm development costs given via grant
Cost of reform	High	Low

Source: Borras (2003)

The use of this model enables us to review the impact of policy in relation to our experiences here in South Africa as we try to assist and support communities to access land and work within the confines of LRAD. The model highlights very starkly the arguments used by the proponents of market-led land reform to suggest that the market is more efficient and more effective than state-led land reform. In developing the model, Borras has identified elements for drawing comparisons between market and state land reform. His critique of MLAR coincides with some of our own points of engagement with the South African MLAR, such as the acquisition method, pace and nature, land prices, implementation method, and so on.

However, the evidence from South Africa contradicts this positive characterisation of market-led land reform.

### *Experiences of market-led reform in South Africa*

The TCOE tribunal and the case studies presented there can be used to provide insights into the fallacies of the so-called efficiency of the market-led land reform programme. No case highlights the shortcomings of the market-led model more starkly than the case of Muldersdrift, a rural community in Gauteng. In line with the 'willing buyer, willing seller' principle, the landless community of Muldersdrift organised themselves into an association that not only identified a piece of land but began negotiating with the farmer about the price of the land. Having agreed on the price, the association raised the money and started paying for it in instalments. After more than half of the money had already been paid, the landowners in the area intervened and halted the process of land acquisition by the African community by persuading the willing seller to sell to white landowners in the area. The case went as far as the white landowners buying out the Muldersdrift community in order to keep ownership exclusively under white control. Molefe Selibo, a leader of the landless community of Muldersdrift, told the tribunal:

To struggle for land is an uphill battle for the poor. Current government policies treat all parties – the landowners and the landless – as equals but we are not equal. The landowners have the resources to resist our land development initiative. (TCOE 2003b: 48)



The power of private landowners within the current policy framework has been a significant factor in the lack of change in the landownership patterns in our country. Official figures indicate a reduction in the number of farming units from 57 980 in 1993 to 45 818 in 2002 (NDA 2005: 6). The reality is that land is changing hands but it is mostly changing amongst those who already own land, and who are consolidating their ownership. The Muldersdrift case is supported by research recently completed by the Surplus People Project (SPP) on the obstacles to land acquisition in the Northern Cape. This research highlights the lack of transparency in the land market as well as a strong drive by landowners to retain control over productive land (Tilley 2004). These are examples that illustrate the fallacious claims of the pro-market lobby that claims the market is the most efficient means by which to expedite land reform.

The case of Ellen Malose – from Derby in the North West province – of the Landless Movement of South Africa is another example of the inability of the system to provide land even though she legally bought a farm at an auction. Shortly after paying her deposit, the sale was withdrawn. Malose claims that the sale of the plot was withdrawn as soon as the white commercial farmers in the district realised that it was an African woman who was purchasing the farm. When she attempted to involve the local municipality and a lawyer to seek an explanation for the withdrawal of the sale, she was informed that the owner had withdrawn the farm. Later she heard that the farm had been sold to someone else (TCOE 2003a: 93–94).

The tribunal also highlighted the fact that market-led land reform was creating massive distortions in land pricing. This is borne out by TCOE's experiences in the Eastern Cape province, where we have helped to establish producer groups. These groups spend months looking for land and then spend an equal amount of time negotiating with the farmer around the price and other details. The Peter Trust from Hankey has waited over two years to buy a farm. During this time there has been a general increase in the price of land, making it even more difficult for landless people to access productive farms. Experiences with producer groups in Cala tell the same story of delays and rising land prices that put farms out of the reach of the poor. A number of the case studies at the tribunal showed that long delays in processing the grant application by DLA officials also acted as a major obstacle in land transactions, and often this led to increases in the purchase price or the cancellation of the deal by a commercial farmer who may have lost interest or patience.

People from Elliot and Xalanga district in the former Transkei testified at the tribunal to the problems and delays with post-settlement support. Many testimonies also raised problems with the way in which households have to combine grants with their own resources to afford the prices asked by the commercial farmers. This is experienced as forced collectivisation and creates overcrowding and problems related to group dynamics and cohesion. In recent years the DLA has significantly reduced the numbers of people who can constitute a group (no more than ten people), making it more and more difficult for groups to put together sufficient resources to make up their own contribution. Though the shift to smaller groups is intended to overcome the problems of forced collectivisation and sustainability, the grants have not increased to support groups who want to purchase prime commercial land.

It is against this background that the arguments used by the pro-market lobby must be reviewed. Trends show that land prices have escalated over the past period and that land speculation has become rife. This trend came under scrutiny during the Land Summit in July 2005, where the DLA said that they had no choice but to intervene in land prices as there were clear cases of price inflation (DLA 2005). The land market has become distorted with relatively little land being put to productive use. Large-scale agriculture has restructured significantly over the past period with large farms increasingly requiring more land to maintain levels of profitability. Even though the tribunal listened to only 26 cases from across the country, it clearly revealed that the role of the market in land reform is biased in favour of the propertied class. The market is an unrealistic mechanism for reforming land relations, as it reproduces the unequal power relations that exist between commercial farmers and the rural poor. Given the history of apartheid, especially in the countryside, poor people have limited experience of market transactions. The role of the state therefore has to be more than simply that of a facilitator and mediator in the land reform equation. While advocates of MLAR argue that 'the role of the government should be to establish a comprehensive legal, institutional and policy framework which will ensure a level playing field for all the players' (Borras 2004b: 54), experience in South Africa has shown that there is no such level playing field.

On the other hand, both the evidence at the tribunal and the numbers of rural poor applying for grants and LRAD show that there is a desire and a hunger for land that will require a new approach.

The World Bank MLAR model is not only inadequate but has not even been able to meet the objectives it set for itself within a neo-liberal framework (AFRA News 2004; Greenberg 2004; Tilley 2004). Research by the Programme for Land and Agrarian Studies has shown that, in ten years of land reform, only 3 per cent of commercial agricultural land had been redistributed, compared to the target of transferring 30 per cent of such land (Hall 2004: 9). In fact, land activists believe that if government continues to administer the current programme, even with the best will in the world the programme will be unable to meet the targets it set for itself.

The South African case study illustrates how MLAR is based on several false assumptions. In the past decade land has remained largely in the hands of commercial farmers. For example, there have been increases in the fruit, horticulture and wine industries yet new farmers struggle to access land. When they manage to secure land, it is often marginal land or so expensive that it requires a large number of families to pool their grants together before they can acquire farms that are in good working order. This has meant in many cases that, although there are willing buyers, there are few willing sellers. Rather, prime agricultural land is circulated amongst the traditional 'white farmer network' (Tilley 2004).

Furthermore, shortfalls in extension services and financing mechanisms are manifested in long delays, bureaucratic inefficiency, a lack of transparency and a fairly closed market except to those already operating in the commercial agricultural networks. All the problems that the rural poor experience in accessing land through the land programme process are further compounded by the very small budget that the Ministry has at its disposal. Thus it appears that the current programme in South Africa falls short in the very areas where proponents of MLAR proclaim their model to be most effective and efficient.

### *Towards an alternative model and vision for land and agrarian reform*

A key challenge that confronts South Africa today is that of reversing the massive poverty, unemployment and underdevelopment that continue to exist in the countryside. This was the main message in the ANC's 2004 election campaign and it has become an important element of President Mbeki's discourse. Since then the ANC has developed the Accelerated and Shared

Growth Initiative as a means of addressing poverty and unemployment. However, there appear to be differing strategies to address this.

In the past 20 years or so the country has undergone an enormous restructuring of the economy. Many of these changes stem from external factors such as globalisation and shifts in centres of production. These changes have impacted directly on commercial agriculture, whose contribution to the gross domestic product (GDP) has shrunk considerably. Today it stands at less than 4 per cent of the GDP, resulting in the shedding of thousands of jobs (NDA 2005: 6). Other changes in the economy, especially in transport, have also affected many rural towns and as agricultural production continued to decline in the face of greater import penetration, a number of rural towns have become ghost towns. In 2005 we witnessed wheat farmers marching through the streets in Cape Town, demanding protection and better prices.

Given these realities, we have to ask the question: what is possible in our rural areas, where over 45 per cent of South Africa's population lives? Very little investment has trickled into the rural areas as a result of the government's current investment strategy based on foreign direct investment. Where there has been investment, it has been limited to tourism, thus encouraging the conversion of agricultural land into game parks, golf estates and other similar ventures that are capital-intensive and beyond the reach of the poor.

Despite arguments that refute the great demand for land for agricultural use as suggested by the Centre for Development and Enterprise (CDE 2005) and others, important research is being undertaken by the United Nations Development Programme in collaboration with the Political Economy Research Institute (UNDP 2005). The latter suggests that small-scale agricultural production has great potential for sustained livelihoods when located within appropriate macroeconomic reforms and targeted support measures. Rather than throwing out the baby with the bath water, what is needed is accelerated land reform accompanied by technical and financial resources. This chapter moves from the point that land reform should not be seen simply in terms of poverty reduction but, on the contrary, as a key element of a transformation programme centred on the continued need for the redistribution of wealth.

We do not anticipate or foresee any big or new investment in manufacturing plants in the Eastern Cape, nor other structural transformation that will result in the creation of the hundreds of thousands of jobs that are needed to

overcome rural poverty through this type of economic growth. Similarly, it is doubtful that commercial agriculture will be restructured to create hundreds of possibilities for growth and the revival of rural towns (Negrao 2002).

A reversal of the current situation will require 'extraordinary measures' and a break with market-led land reform. This implies a radical departure from the dominant model promoted by the World Bank. This is not the only conceptual leap that will have to be made. The government will also have to acknowledge that rural unemployment and underdevelopment will not be solved through a public-works programme, or foreign direct investment or agribusiness that is based on highly mechanised agriculture or tourism. Change in the countryside requires the large-scale redistribution of land and financial and political support to the poor to build another way of life and livelihood.

### ***Shift from market-led to state-led land reform***

#### *Massive land redistribution to drive the rural economy*

The experience of the past ten years of the land reform programme indicates that both the mechanisms and the objectives of the current land reform programme must be revisited. If land reform is to achieve more than simply stimulating the market, if it is to address food insecurity and contribute to overcoming poverty, then the role of the state has to change dramatically. The state's role cannot be limited to providing only a legislative environment nor can it continue to play a minimalist facilitator role. Distributing land is only a small part of the role that the state should be playing in land and agrarian reform. Dealing with the enormous challenge of rural poverty, rural unemployment and underdevelopment requires a new integrated development plan that is well resourced at the level of human, technical and financial capacity. Such a plan will be based on an approach that does not separate agricultural and trade policy from land redistribution; on a perspective that places massive land redistribution as the motor force for reorganising the rural economy; and the obtaining by the state of land for redistribution both from private landowners and through the reorganising of existing state land. Land reform will need to be demand-driven and recipients will include a wide range of rural end-users such as organised small producer groups, individual producers, co-operatives and family units. Such a land reform programme, including extension services and general support, will

be oriented towards cultivation and other productive purposes favouring a broader livelihood strategy.

Negrao argues that ‘access to land by all those who need it is an indispensable condition to ensure consumption and the retention of people in the rural areas’ (2002: 25). This is not far from the Freedom Charter demand that explicitly calls for land to be made available to all those who work it. The choice of utilising the land must become a viable option for the rural poor.

The system of services and support will need much greater levels of integration and coordination. The DLA ought to consider effective ways of ensuring greater levels of support to small-scale producers. It may be necessary to consider using the structures of local government, given their proximity to rural communities, as the basis for the implementation and coordination of extension services. Local government can also provide the infrastructural support that might be identified both in the integrated development plans and by small producers and small-scale farmers. These district municipalities could become the hubs that drive and oversee agricultural and non-agricultural development in the countryside. This presupposes the overhauling of local government in ways that ensure effective popular participation, accountability and more effective resourcing.

Another important function of the state should be to ensure that adequate skills and technological development are made available to rural communities. This will entail rethinking the school curriculum, youth development services and capacity-building available to small producers. Non-governmental organisations (NGOs), technikons and universities must be geared towards supporting this drive towards agrarianisation of the countryside.

### *Different models of agriculture*

The second challenge that has to be addressed is the dominant model of agriculture that exists in South Africa. For many landless people who dream of accessing land and starting to produce on this land, the vision is that of a huge farm, with tractors, large-scale irrigation infrastructure and many farm workers. This vision of a highly mechanised farm producing for the market is unrealistic for the vast majority. During the past two decades the debate has centred on whether models such as these are still appropriate and sustainable. The agribusiness model relies on large quantities of fertiliser,

insecticide, water and technology, which are very costly, both financially and on the environment. In many parts of the world today the focus is shifting to a different form of agriculture and there is enough evidence to support the notion that bigger is not necessarily better. The 1995 Conference on Hunger and Poverty, sponsored by the International Fund for Agricultural Development as well as the 1996 World Food Summit point to the negative impact of large-scale, highly mechanised agriculture on development and poverty and highlight the significant contribution that small-scale natural farming can make (Moore 2001). Environmentalists are promoting smaller family-run farms that are conscious of the need to use natural farming methods that require fewer inputs.

In South Africa, we will have to develop a number of coexisting models of farming and support for farmers. It will be important not to treat all those who want land as aspirant farmers who want to produce for the market. Some might want to continue pursuing multiple livelihood strategies, whilst others might want to work in partnership with members of their community. Therefore the support provided cannot be approached from a one-size-fits-all perspective; rather, it must be tailored to meet the needs and the capacity of the group applying for land. The role of the government would be to assist producers to develop their farming units and to place much greater emphasis on production for consumption and food security. Such a scenario implies a system of support for small producers, both financially and with research into appropriate methodologies, technologies and production.

The Human Sciences Research Council has found that 14 million people are vulnerable to food insecurity (HSRC 2004: 25). Rural food insecurity stems from the fact that poor households have little access to land and other natural resources. The government's commitment to promoting food security for all South Africans not only implies the need for a rethink of land reform, but will also require a revisioning of the dominant agricultural model that currently exists. The continued insistence that high-input, large-scale commercial farming aimed primarily at the export market is the only viable farming model means that small-scale farming for food security and local markets receives little incentive or support. Alternative farming methods and appropriate technologies that are more suited to the rural poor are simply not being explored. Farming for food security and sustainable livelihoods requires a completely different mindset. It requires a sustained effort to encourage

poor farmers to make use of less expensive farming methodologies and to buy produce from their neighbours. But, most importantly, it requires a land reform programme that ensures that the poor have access to land, tenure security, and creative support for their endeavours.

*Building the voice of the rural poor*

If anything can be learned from the last ten years, it is that alternative policy formulations and perspectives are inadequate when not connected to the actual organisation and demands of the affected communities themselves. Under conditions of globalisation governments find it difficult to respond to the real needs of the poor. The power of the international financial institutions and transnational corporations is overwhelming. Changes in policy need therefore to be rooted in a countervailing force. It is in this regard that building the voice of the rural poor and landless becomes so critical. It is meaningless to discuss and develop policy alternatives outside a broader discussion and strategy for building the organisational strength of poor rural communities.

The key challenge that confronts the rural poor today is the need for an organised voice and movement that is able to articulate the demands, dreams and concerns of those who live in the rural areas of our country. The central issue confronting those of us who agree with this is not the lack of an analysis or an inadequate critique of the current problems experienced, but the fact that the balance of power to change and to make the alternative vision a material reality is not in our favour, as the rural poor are weak and fragmented at this stage.

The last ten years have seen a rise and reorganisation amongst the different sectors that make up the social layers in the countryside. In the last five years, hundreds of people's organisations such as farmer groups, crafters' associations, rural savings clubs, community development forums, rural fishing associations, farm worker unions and labour tenant associations have been established. There is a growing realisation amongst local people's organisations, social movements, NGOs, land activists and academics of the need to build greater collaboration and joint action amongst these groups. Problems of poverty, environmental degradation, landlessness, food insecurity, HIV/AIDS, and a lack of basic services are not simple or separate



problems that can be solved by applying separate solutions. These are complex problems that require multiple solutions and strategies. They are possible only if the rural poor gathers together its forces, begins to act as a collective and makes its voice heard.

There is also a greater consciousness that it is important to link the micro issues to their causes at a macro level and show the linkages between local issues of poverty and their roots in national and international policy frameworks. Linkages with structural adjustment and globalisation can facilitate the building of solidarity between communities in the rural villages in South Africa, southern Africa and the rural poor in the rest of the world. Similarly, it is possible to make the linkages between rural and urban poor, not only because of the interdependence between the communities, but also because the rural households are often dependent on remittance from those working in the urban centres. We have to become part of the broader movements struggling for an alternative vision for society, such as those organised around the World Social Forum and the Africa Social Forum.

The challenge facing such a broader strategy of movement-building is to find the common issue around which the hundreds of people's organisations and stakeholders can unite. The ability to find the unifying campaign has so far proven to be elusive. Different initiatives such as the Rural Development Initiative (RDI), the Landless People's Charter campaign and a number of other campaigns have led to a range of important lessons and conclusions for those in the sector. Chief amongst these is to build from the bottom up and not to create structures and leadership prematurely. Organisations and movements must evolve out of self-activity and ongoing struggles based on concrete issues and an organic leadership will emerge from these struggles. From the RDI came the lesson that the role of the NGO must not be to substitute for people's organisations, and that while NGOs should not be afraid to facilitate and support the building of campaigns or actions around land rights issues, they have to be conscious that they are not the embodiment of the rural masses. Their role is to act as supporters, researchers, facilitators and catalysts.

Another key lesson is the importance of identifying a common issue around which to build a campaign, and not to try to build a campaign around every conceivable issue that confronts the rural poor. A further lesson is the need to agree on a set of transitional demands and outcomes for a campaign rather than try to impose a unilateral approach. It is conceivable, for example, to

build a campaign around the demand for a land tax on all land that exceeds a particular size. Such a land tax could be based on the land price or value that the landowner is demanding. This approach will ensure that the current distortions in the market will change and land sizes will alter. Similarly, a demand for taxing arable land that is being used for recreational purposes could reverse the current trend of converting farmland into tourist attractions.

### *Conclusion*

Overcoming rural poverty and underdevelopment will require an alternative approach to the current market-led, 'willing buyer, willing seller' approach. Currently, all indications are that the existing land reform and related policies will not even meet their own targets, let alone address the legacy of apartheid and land hunger and extreme poverty. The abovementioned strategies for building social movements to exert pressure from below for transformation are needed to bring about fundamental shifts at the level of national policy.

The July 2005 Land Summit was initially seen as signalling a greater space for engagement between government and civil society on the direction of land reform and rural development. A number of important resolutions were passed, including the review of the 'willing seller, willing buyer' policy. Yet, months later, when the concrete outcomes of the Land Summit were assessed, it appeared as if very few changes had resulted. This confirms the importance of an organised movement that can drive policy reformulation.

An organised voice of the rural poor is urgently needed to support the commitments made by the government in 2004 and at the Land Summit to address poverty, underdevelopment and unemployment in rural areas. This not only implies a need to build strong, independent people's organisations that are able to hold and engage the government on the commitments it has made, but also the need to strengthen the voice of the rural poor so that they can clearly articulate the problems and challenges at local level and begin to pose alternative options for addressing the challenges that confront them.

A restructuring and reconceptualisation of the present rural economy is urgently needed. Such a process should place land and agrarian reform at the centre of an integrated rural development strategy with the state playing a proactive role in releasing masses of land and providing support for a new agrarian model aimed at food security and the establishment of local markets.

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# 9 *Agrarian reform and the 'two economies': transforming South Africa's countryside*

Ben Cousins

## *Introduction*

This chapter focuses on the question of what contribution land and agrarian reform can make to reducing inequality and addressing the structural nature of rural poverty in post-apartheid South Africa. It suggests that the problem needs to be conceptualised in terms of the 'agrarian question of the dispossessed', which can be resolved only through a wide-ranging agrarian reform. This must include the redistribution of land and the securing of land rights, but must go beyond land questions and aim to restructure rural economic space, property regimes and socio-political relations. This approach is premised on the potential for 'accumulation from below' in both agricultural and non-agricultural forms of petty commodity production, and expanded opportunities for 'multiple livelihood strategies'. The chapter suggests that area-based agrarian reform should play a central role in such an approach.

South Africa's new democracy has made tremendous strides in its first decade, as a host of ten-year reviews have pointed out. But continuing poverty and inequality undermine these gains. We continue to live in one of the most unequal societies on earth. The continuing coexistence of economic growth and structural poverty poses challenges to how we understand the problem, and even greater challenges to policy makers charged with constructing a developmental path that can result in rising incomes for all.

President Mbeki has recently characterised the developmental challenge in terms of connecting and integrating the 'two economies' of the modern industrial, mining, agricultural, financial and services sector, on the one hand, and the 'third world economy' found in those urban and rural areas where the majority of poor people live (Mbeki 2004: 10–11). He suggests that the two economies are 'structurally disconnected', which means that economic

growth in the 'first economy' does not automatically benefit those in the 'second economy', and that integration will require 'sustained government intervention', including resource transfers and the infusion of capital (2004: 11). Agrarian reform and the integrated rural development programme are included in the list of government strategies to 'meet the growth and development challenges of the Second Economy' (2004: 11).

But are there really two economies, and is the challenge to integrate the two? Some analysts suggest that poverty is caused by structures of inequality within *one* economy that is already integrated, but in ways that disadvantage the majority (Terreblanche 2002; Makgetla 2004). If this is a more appropriate model, then, to use President Mbeki's oft-quoted analogy, the solution lies not in building ladders between the lower and the upper storeys of the two-tiered house, but rather in rebuilding the house according to a new set of architectural plans. In other words, it may be that the apparently successful policies pursued within the first economy are the same policies that create structural disadvantage in the second, and thus need to be questioned.

This chapter focuses on the question of what contribution land and agrarian reform can make to reducing inequality and the structural nature of rural poverty in post-apartheid South Africa. It suggests that the problem of rural poverty needs to be conceptualised in terms of an agrarian question of the dispossessed, which can be resolved only through a wide-ranging agrarian reform that must include the redistribution of land and the securing of land rights, but go beyond land questions and restructure the agrarian political economy.

### *The context: poverty and inequality in South Africa*

Since 1994 inflation has stabilised and moderate economic growth (1 to 3 per cent per year) has occurred. There have been substantial improvements in the provision of infrastructure and social services, such as clean water for 8 million people, electricity for 1.5 million households, and free medical services to all pregnant women and children under the age of 7 (De Swardt 2003: 44). The provision of grants (e.g. old-age pensions, child support) has risen steadily, and more people would be below the poverty line without them (UNDP 2004).

Despite many achievements over the past ten years, however, there is compelling evidence that structural poverty is worsening. Unemployment has risen rapidly, from 16 per cent in 1995, escalating to 29 per cent in 2002, but if those who are too discouraged to continue to seek work actively are included, the figure rises to over 40 per cent. Employers have increasingly chosen capital- rather than labour-intensive techniques to improve competitiveness and there has been a dramatic decrease of employment in the semi-skilled mining and commercial farming sectors. Between 45 and 55 per cent of all South Africans currently live in poverty. Rural poverty is a major problem, as over 70 per cent of all poor people reside in rural areas and nearly half of these are chronically poor (Aliber 2003: 474).

As in the rest of the region, the HIV/AIDS pandemic is contributing to continued vulnerability and impoverishment. Currently around 4.2 million people (and 20 per cent of adults) are infected with the HI virus. Without effective measures to prevent AIDS, the number of cumulative deaths is expected to grow to about six million in South Africa by 2010, which will result in more than one million AIDS orphans by that year (De Swardt 2003: 45).

Seekings and Natrass (2002) suggest that in post-apartheid South Africa class divisions are becoming more important than race. The emerging class structure consists of an increasingly multiracial upper class (corporate elites plus professional and managerial groups); a 'middle' group of mostly urban, employed workers; and a marginalised group of farm and domestic workers plus the unemployed with little income from assets or entrepreneurial activities (the 'underclass'). The upper class comprises 12 per cent of the population but earns 45 per cent of all income; the middle group comprises 48 per cent of the population and earns 45 per cent of income; and the marginalised comprises 40 per cent of the total but earns only 10 per cent of the income. The underclass makes up 28 per cent of the total population. Contemporary inequality is no longer primarily interracial, but intra-racial, 'driven by two income gaps: between an increasingly multi-racial middle class and the rest, and between the African urban industrial working class and the African unemployed and marginalised poor' (Seekings & Natrass 2002: 25).

To reduce inequality while ensuring growth in income, Seekings and Natrass recommend a 'social democratic policy agenda' aimed at sustained job creation (including low-wage, labour-intensive employment), improvements in education, 'democracy deepening asset redistribution' (worker ownership

of firms plus land reform), and welfare reform. Others also argue for a large-scale redistribution of productive assets, in concert with a range of other policies such as skills development and infrastructure development (Terreblanche 2002; De Swardt 2003; Makgetla & Van Meelis 2003). For May, Carter and Padayachee, a 'fundamental rethinking of economic strategy may be required', involving stronger linkages between macroeconomic and microeconomic reforms, the latter including 'measures that improve the access of the poor to productive assets such as land reform, infrastructure and financial services' (2004: 20).

### *South African land reform since 1994: progress and problems*

If economic policy analysts are beginning to suggest that land reform should form a central thrust of the government's anti-poverty strategy, recent government rhetoric also implies that it should be seen in this light. Policy statements now portray land and agrarian reform, as well as the black economic empowerment charter for the agricultural sector (Agri-BEE), as part of a strategy to integrate the second economy into the first.

However, land reform policies are unlikely to achieve their current targets, in part because they are so underfunded (Hall & Lahiff 2004). Before 2005 the Department of Land Affairs (DLA) had never received more than 0.5 per cent of the national Budget. By March 2004 it had transferred a total of 2.9 per cent of commercial agricultural land, via the restitution, redistribution and tenure reform sub-programmes. This compares to a target of 30 per cent of agricultural land, originally by 1999, and now by 2014. It is true that the 2003/04 Budget saw a doubling of funds for land restitution to help it meet the December 2005 deadline for the resolution of around 80 000 land claims. This is clearly the high-priority land reform sub-programme for government at present, perhaps because of the powerful symbolism of state redress for land dispossession.

However, critical questions continue to be raised in relation to the impact of restitution on the overall distribution of landholdings and poverty, given the fact that the majority of claims resolved to date have been in urban areas, and settled through cash payments (Hall 2003a). Rural claims are in general larger (involving hundreds or thousands of households per claim), more complex, and more expensive than urban claims. The Commission on Restitution of

Land Rights currently estimates that around R13.5 billion is needed to settle all the outstanding claims, over ten times the amount allocated in the 2005/06 Budget (2003a: 3). In relation to redistribution, the 'sharp end' of land reform policy, it is estimated that a capital budget of at least R1 billion per annum is required to meet the target of 30 per cent of agricultural land. This compares to R445 million allocated in the 2005/06 Medium Term Expenditure Framework projections (2003a: 3).

A major weakness of the land reform programme is in relation to post-transfer support for people on restored or redistributed land. Jacobs (2003) reports that the agricultural support programmes of both the national and provincial departments of agriculture have been poorly aligned to projects of the DLA. Inadequate resources have thus far been devoted to such support. The recent announcement of a Comprehensive Agricultural Support Programme is encouraging, but its budget allocation is still small (R200 million in the first year) and the content of the programme is still unclear.

The tenure reform component has been particularly slow to produce real change in the lives of rural people. Only in 2006 was legislation passed to address the legal insecurity of people's land rights in communal areas. The department is now preparing to implement the Communal Land Rights Act of 2004, amid continuing controversy over the powers of traditional leaders in land administration, the wide discretionary powers of the Minister, its measures to enable gender equity, and whether or not the Act gives adequate expression to the constitutional requirement for tenure security. It is likely that the Act will be challenged in the Constitutional Court before implementation begins on a large scale. The latest estimate is that implementation will cost R1 billion per annum, but it is not clear that funds on this scale will be made available to the DLA by the National Treasury.

Tenure legislation to protect the rights of farm workers, labour tenants and farm dwellers has been on the books since 1996/97, but has had only limited success in preventing evictions from farms, and even less in assisting these highly vulnerable groupings to acquire land in their own right (Hall 2003b). A process to consolidate these laws and strengthen them has been underway since 2002, but without any public debate, and it is unclear when (if ever) a new legislative framework will see the light of day. As Hall, Jacobs and Lahiff (2003) comment: 'Landowners remain hostile to attempts to reform tenure



rights on farms, and government has yet to demonstrate that it is willing to confront landowners and invest substantially in enforcing the rights of occupiers' (2003: 13).

The larger problem is that the problems surrounding South Africa's land reform programme would not be resolved even were it better funded: many of the fundamentals of the policy framework are ill-suited to the goal of poverty reduction. As characterised by Hall et al. (2003: 32–33), its defining features to date have been 'a gradual and modest redistribution of land through consensual, market-based methods'; a 'clear shift away from a programme aimed at the rural poor and landless to one aimed at the creation of a new class of commercial farmers'; non-interference with existing property rights (most evident in the 'willing seller, willing buyer' approach to land acquisition); and the failure to integrate land reform into a broader programme of rural development, together with a general neglect of post-transfer support. As Hall et al. conclude:

The implementation of a comprehensive agrarian reform that transforms the commercial agricultural sector, addresses the dualism of freehold and communal areas and provides livelihood opportunities for the mass of the rural poor and landless remains a major challenge for the country...The time is ripe for some radical rethinking... (2003: 33)

### *South Africa's agrarian question revisited*

Answers flow from questions, solutions from the manner in which a problem is formulated. Theory is important in formulating questions and problems. This chapter suggests that the most appropriate analytical framework for understanding the ongoing production of poverty in South Africa's 'integrated but unequal economy' is one drawn from the materialist political economy, and in relation to the rural areas, from an analysis of the 'agrarian question of the dispossessed'.

#### *The agrarian question of capital vs that of the dispossessed*

The classical agrarian question was concerned with the transition to capitalism, both within agriculture and in the mechanisms through which agricultural

development contributes to industrialisation. The agrarian question of *capital* is resolved when transitions to capitalist agriculture and industry are complete (Byres 1991; Bernstein 1996). But there is not just one pathway through this transition – both its character and the outcomes are shaped by class relations and struggles, depending on the strength of contending interests of landed property and agrarian capital, agricultural labour in a variety of forms (including tenant peasants), and emerging industrial capital. State policies and interventions also influence agrarian transformation.

Byres (1991), following Lenin, describes two broad alternative pathways:

- ‘*accumulation from above*’, or the Prussian or Junker path, which sees pre-capitalist landowners transformed into agrarian capitalists. This occurred in parts of Latin America, northern India and South Africa, as well as in 19<sup>th</sup>-century Germany;
- ‘*accumulation from below*’, or the American path, where conditions for petty commodity production are established and a fully capitalist agriculture emerges through class differentiation of peasants and other kinds of small producer.

More recently, Bernstein (2004) has suggested a reconsideration of the classical view of the agrarian question under the conditions of contemporary capitalism. On the one hand, capitalist development imposes a particular logic of social change and agrarian transition on pre-capitalist social formations; on the other, its uneven development on a world scale means that this logic is not realised in the same manner, or to the same degree, everywhere. The persistence or reconfiguration of pre-capitalist formations may continue to be a barrier to capitalist transformation, and the international division of labour and modes of functioning of international capital may alter the trajectory and forms of the transition, and render it ‘incomplete’.

Bernstein concludes that, given the massive development of the productive forces in capitalist agriculture, the agrarian question is no longer significant for capitalist industrialisation: ‘...there is no longer an agrarian question of capital on a world scale, even when the agrarian question – as a basis of national accumulation and industrialization – has not been resolved in many countries of the “South”...’ (2004: 202). The reverse side of ‘globalisation’ as a new phase in the concentration, centralisation and mobility of capital is that it intensifies the *fragmentation of labour* (Bernstein 2004). Labour pursues its reproduction in conditions of ever more insecure wage employment

combined with 'informal sector' and survivalist activity, across a range of sites: urban and rural, agricultural and non-agricultural, wage and self-employment. Fragmentation and its consequences, allied with collective demands and actions for greater stability and security of livelihoods, drive many contemporary struggles over land, which for Bernstein indicates the emergence of an agrarian question *of labour*.

In relation to South Africa, Bernstein (1996) suggests that South Africa's agrarian question is both 'extreme and exceptional'. He argues that the central place within the social and political order of white commercial farmer interests meant that policies, in both the segregation and apartheid eras, promoted cheap agricultural labour, provided extensive subsidies and installed a bureaucratic regime to regulate production, distribution and trade in the interests of agricultural capital. For Bernstein the concentration, scale, and productive capacity of capitalist agriculture is clear evidence that the agrarian question *of capital* has by now been resolved via 'accumulation from above', i.e. the Prussian path. Market liberalisation in the 1980s and 1990s eroded these 'Prussian' features to a certain extent (e.g. through casualisation and outsourcing of labour supplies, and private forms of regulation within globalising agro-food regimes), but did not fundamentally alter the distribution of power and resources within the sector.

The agrarian question of capital, however, is only one side of the coin; on the other, as in the global arena, the agrarian question *of the dispossessed* (of labour) has not yet been resolved. Structural unemployment, poverty, food insecurity, land hunger and continued rule by chiefs mean that the struggle for democracy, and against oppression and exploitation, continues. The agenda of the incomplete agrarian question in South Africa is to contest the monopolistic privileges of white/corporate farming, and of chiefly/bureaucratic elites in former homelands, and create the conditions for 'more diverse forms of commodity production', i.e. 'accumulation from below' – always recognising that this will involve processes of class differentiation (Levin & Neocosmos 1989; Neocosmos 1993; Levin, Russon & Weiner 1997).

### *Stereotypes of small-scale agriculture*

The radical restructuring of agrarian relations does not appear to be on South Africa's policy agenda just yet. This is partly the result of effective lobbying

and advocacy by the most effective arm of 'organised agriculture', the farmers' union, AgriSA. Conservative policy stances are also influenced by stereotyped understandings of agricultural development promoted by the commercial farming lobby and embraced by African National Congress (ANC) policy makers.

This view can be summarised as: (i) only commercial agriculture is *real* agriculture, and successful small-scale farming can only be a scaled-down version of technologically sophisticated and profit-maximising commercial farmers; (ii) subsistence farmers are inefficient and unproductive; (iii) rural poverty in Africa will be addressed only when large numbers of rural people relocate to urban areas to engage in either formal sector wage employment or informal sector self-employment; and (iv) land reform in southern Africa should thus focus primarily on deracialising commercial agriculture.

Against this perspective a number of counter-arguments can be mounted, asserting the social inefficiency of large-scale commercial farming, in terms of land use in particular (Levin & Weiner 1997), and the under-acknowledged productivity of communal area farming (McAllister 2000; Shackleton, Shackleton & Cousins 2000a, 2000b). At present, however, a deep scepticism prevails in relation to the contribution of rural areas, and of smallholder production in particular, to national economic development.

What is the origin of this scepticism? Is this simply an issue of inherited bias and prejudice, or is this view nothing other than a fairly unadulterated version of 'modernisation'? It is tempting to dismiss rural scepticism as simply stereotyped and unhelpful. We should, however, also take note of analysts such as Bryceson (2000) who have analysed transformations in livelihood systems in Africa over the past two decades. Many were set in motion by structural adjustment programmes, the removal of agricultural subsidies and the dismantling of parastatal marketing boards. The terms of trade for many agricultural export crops have declined, and many small-scale producers have shifted out of commercial crops. Globalisation of the agro-food sector has led to increasing levels of class differentiation as small farmers sell or rent their land to larger farmers. Bryceson refers to these transformations as 'de-peasantisation', but notes that 'African rural dwellers...deeply value the pursuit of farming activities. Food self-provisioning is gaining in importance against a backdrop of food price inflation and proliferating cash needs' (2000: 5).

In South Africa, of course, 'de-peasantisation' was deliberately engineered, a key component of segregationist and apartheid policies from the early 20<sup>th</sup> century. It has resulted in a structural disadvantage with deep historical roots. Both in South Africa and more widely in Africa, therefore, 'rural scepticism' is the result of more than simply bias and a misreading of needs and opportunities; it arises in part from real changes that have been wrought in the character of rural livelihoods. This means that arguments for broad-based land reform and agricultural development 'from below' must take account of these larger realities and processes, and show how they can be challenged, and thus *how reality can be changed*. This is more difficult and challenging than arguing against misrepresentation and bias. The arguments are only partly about the 'facts' – they are also about *possibilities*. These alternative realities should be the real focus of debate, given the fact that the bulk of the rural population, in South Africa as elsewhere, is becoming 'increasingly redundant' (Bryceson 2000: 187), and that without real change the likely future of many rural areas is to become 'reserves of poor migrant labour' (Kydd, Dorward & Poulton 2000: 2). In other words, we return to the agrarian question of the dispossessed.

*Agriculture and land-based livelihoods in the contemporary agrarian question*

How important is agriculture in the livelihoods of rural South Africans today? In most discussions of the agrarian question there is a primary emphasis on *farming*, which has obscured to a certain extent the reality of increasing reliance on non-agricultural livelihoods, including natural resource harvesting and processing. These need to be integrated more centrally into both analysis and proposals for agrarian reform. In South Africa the diversity of livelihood strategies has arisen in part as a response to dispossession, overcrowding and landlessness in the former homelands. Although 70 per cent of the population in these areas has access to land, for more than 50 per cent of this group, land size is less than one hectare (StatsSA 1998: 2). In these circumstances, reliance on farming alone is not an option for most rural people.

Research reveals that the rural population is not homogeneous, but socially and economically differentiated, and different strata within rural communities assemble different bundles of livelihood strategies (Levin et al. 1997; May 2000). Many depend on *multiple* livelihood sources, including agriculture at different scales, formal employment, remittances, welfare transfers such as pensions, and micro-enterprises. As Weiner, Levin and Chimere-Dan

emphasise, dependence on pensions is often overstated, and ‘the dominance of wages and pensions...must not be used to understate (or ignore) the importance of alternative income earning strategies such as selling (crafts, fruits and vegetables), brick building, construction, and trading’ (1997: 51). In addition, harvesting of natural resources such as medicinal plants, fuel wood or wild foods (mostly from communal rangelands), and their consumption, sale or further processing, have been underestimated or ignored in the past, but play a key role in the livelihoods of many rural households (Kepe 1997; Shackleton et al. 2000a). These South African realities are not unique. Gillian Hart notes that:

The perpetuation of multiple, spatially-extended livelihood strategies and efforts to retain a secure base is not just an apartheid hangover, destined to disappear in the context of political and economic liberalization. Nor are these patterns in any way peculiar to South Africa. Rather, they are a defining feature of late 20<sup>th</sup> century capitalism, exemplifying the fiscal crisis of the nation state and its retreat from welfare provision, as well as the imperatives of flexible accumulation and global competition. (1996: 269)

The political implications are clear: ‘The time has come to rethink land questions, de-linking them from agriculture and connecting them to broader demands for livelihood, secure housing and a social wage. Such livelihood strategies might well include some form of agriculture, but would extend well beyond it’ (Hart 1996: 269). However, as noted by Bryceson (2000), agriculture remains an important aspect of the agrarian question in Africa. Food production remains an important livelihood strategy for most rural households.

In South Africa, research confirms the central importance of small plot agriculture, mostly for domestic consumption, often located in large ‘gardens’ adjacent to homesteads rather than in more distant fields (Ardington & Lund 1996; Weiner et al. 1997; May 2000; McAllister 2000; Shackleton et al. 2000a). As noted earlier, around 70 per cent of households in the former reserves are engaged in some form of crop production. Participation in this form of production is highly gendered, with women taking major responsibility for it as one aspect of domestic reproduction.

At the other end of the spectrum, there is also a small but important class of emergent capitalist and petty commodity producers in African rural areas

(Bernstein 1996; Murray 1996; May 2000). They formed the National African Farmers' Union in the early 1990s and have been pressing the government for land reform policies that will enable them to acquire land, credit and support services. However, their primary economic activity is often not farming, but a small business enterprise such as a transport company, a trading store or a butchery (Murray 1996). Small-scale agriculture in South Africa is thus highly differentiated in terms of the class identity of producers (Levin et al. 1997). This is true in other parts of Africa too. Farmers with small plots are selling or renting their land out to larger-scale farmers and turning to agricultural wage labour or a range of non-farm activities (Bryceson 2000).

The continuing importance of land-based livelihoods, but the real difficulties of relying solely on them, results in the rural poor being squeezed from both ends. Increased dependence on consumption items, including food, means that rising prices put pressure on disposable income; high levels of unemployment mean non-agricultural incomes are often reduced; and the economics of crop production in the rural periphery means that agriculture cannot be the sole means of livelihood. The articulation of rural and non-rural activities and income streams is weakened by the 'redundancy' of the rural poor within struggling capitalist economies, leading to a crisis of social reproduction. This is exacerbated by the HIV/AIDS pandemic.

### *Reformulating the agrarian question in South Africa*

A reconsideration of the agrarian question in post-apartheid South Africa requires us to frame it in terms of contemporary realities of structural poverty. The linkages between rural and land-based livelihoods and formal and informal jobs in small towns and urban areas are still important, but massive job shedding from the core economy means that contradictory trends are evident. On the one hand, the functional articulation of wage income and rural production is reduced, and people look to farming or natural resource harvesting. On the other hand, cash is still needed for the purchase of agricultural inputs and assets such as livestock, and when asked why they don't plant more crops, people often reply – 'because we have no money from a job'. Many rural people are now neither 'workers' nor 'peasants' nor a hybrid of the two, but an underclass with an uncertain future, or 'footloose labour' in the sense of Breman 1996 (cited in Bernstein 2004: 205).

The agrarian question of the dispossessed thus revolves around the constituting of a 'new' class of emergent petty commodity producers from within the ranks of the desperately poor. It cannot be constituted on the basis of production in agriculture alone, given the density of settlement and population–resource ratios in the countryside, as well as the difficulties faced by the agricultural sector as a whole. 'Multiple livelihood' forms of petty commodity production, articulated with wage labour in many (but not all) instances, will have to be created, both within and beyond the borders of the former homelands, and in urban and semi-urban zones as well as in deep rural areas. The rallying cry for this emerging class could be 'accumulation from below, not above!' (Neocosmos 1993). The close connections between the urban and rural sites in which households constitute and reconstitute themselves mean that these livelihoods and forms of production will have a hybrid character, combining the 'urban in the rural' and the 'rural in the urban' (Mamdani 1996).

### *Towards agrarian reform*

Land reform must be clearly distinguished from agrarian reform. The former is concerned with rights in land, and their character, strength and distribution, while the latter is concerned with a broader set of issues: the class character of the relations of production and distribution in farming and related enterprises, within both local and non-local markets. It is thus concerned with economic and political power and wealth and the connections between them; its central focus is the political economy of land, agriculture and natural resources. Although distinct, and in some ways presenting different challenges, land and agrarian reform are inseparable. In contemporary South Africa a wide-ranging agrarian reform is required which gives a central and leading role to the redistribution of large areas of productive land to the rural poor. The following five propositions are suggested as a possible basis for a rethinking of policy.

*A wide-ranging programme of land reform is a necessary but not sufficient condition for the resolution of the agrarian question.*

Rural development programmes focused on improving the output and productivity of agriculture and natural resource use, or on enhancing rural livelihoods more generally, will not reduce poverty on their own. Overcrowding and high population–resource ratios in the former reserves,



together with poorly defined and insecure rights to those resources, remain major constraints. Land reform is urgently required:

- to create equitable access to land and natural resources, across the whole country, including in communal areas;
- to secure people's rights to land and resources, both in law and in practice, within a range of tenure systems (including both group and individualised systems as options) which receive strong institutional support from the government;
- to restore land to those with valid restitution claims;
- to increase the tenure security of farm workers and labour tenants, and to provide them with access to land in their own right wherever possible.

*Area-based land reform is required to create the conditions for agrarian reform.*

A proactive state can make active use of market mechanisms to target land reform in regions of emerging opportunity where need (and demand) are also found (Hart 1996; Lahiff 2001). If the government set out proactively to match supply and demand in these regions, then large blocks could be acquired at reasonable cost. Expropriation, or the threat of expropriation, also has a role to play where the 'willing seller, willing buyer' framework proves to be a constraint. This would then allow planning for *area-based* land and agrarian reform (Cousins 2004a). Infrastructure and support services could be provided to land reform projects in a much more cost-effective manner than is possible within the current patchwork, or 'black spots in reverse', pattern of land acquisition. The essential components of an area-based approach might include:

- districts or zones of both need and opportunity for land and agrarian reform are carefully selected and designated;
- government provides funds for and facilitates a transparent process of land identification and acquisition by groups and individuals;
- key decisions in relation to land use, systems of production and land tenure are made by the participants themselves, not by officials or consultants;
- a range of scales of production and degrees of 'commercialisation' on the acquired land should be allowed, and variable definitions and interpretations of the 'viability' of production should be accepted;
- the government undertakes district-wide or zonal planning for infrastructure and service provision, especially in relation to post-transfer support, including the marketing of produce;

- planning for land and agrarian reform is made central to the processes leading to the formulation of Integrated Development Plans (IDPs) by local government bodies;
- state land is contributed to the process where appropriate;
- a common set of legal instruments and administrative support structures would enable the integration of land redistribution and tenure reform; in some areas restitution projects would benefit as well.

Zones of both opportunity and need for area-based land reform include:

(i) Commercial farming areas adjacent to communal areas. Research has revealed that many commercial farmers in these zones are eager to sell, and at fairly low prices (Aliber & Mokoena 2002). Often their farms have good agricultural potential. On the other side of the fence are large numbers of poor people without access to sufficient (or, in some cases, any) arable or grazing land. Relocation does not involve vast distances, and 'straddling' (of livelihoods, social networks, support systems) is facilitated (Andrew, Ainslie & Shackleton 2003).

(ii) Areas in which large rural populations are located, small towns with growing economies and adjacent high-potential agricultural land, enhancing prospects for combining land-based and urban livelihoods, and for agro-processing enterprises and employment. Hart (1996, 2002a) suggests such a scenario in the KwaZulu-Natal midlands.

(iii) Peri-urban areas with good agricultural potential, and sometimes with commonage land owned by local municipalities (e.g. in the Free State, Eastern Cape and Northern Cape – see Anderson & Pienaar 2003). Peri-urban areas often have the potential for intensive forms of small-scale production (market gardening, dairying, poultry production) for local and more distant markets.

(iv) Districts with high proportions of rural restitution claims (e.g. many districts in Limpopo province). Here restitution and redistribution can become highly complementary programmes of agrarian transformation.

(v) Areas with the potential for expanded production by smallholders of high-value cash crops (sugar, cotton, subtropical fruit, specialist vegetables) and associated agro-processing. Vaughan (2001) and Andrew et al. (2003) describe relevant experiences. One possibility to explore in these areas is using redistributed large-scale farming and processing concerns as core service nodes for an expanding smallholder sector.

(vi) Areas of privately owned land in low rainfall areas with potential for community-based ecotourism enterprises; some of these are subject to restitution claims. Area-based programmes could include establishing dedicated programmes of institutional support to a spread of such enterprises.

*Land reform will be effective only if embedded within a broader agrarian reform programme that creates the conditions for processes of 'accumulation from below'.*

Most of those active in the land reform sector now realise that access to land and resources is necessary, but not sufficient. Also necessary are effective access to inputs, tools and equipment, draught power, and marketing outlets. Infrastructure for irrigation, transport and communications, and support services such as extension, training and marketing advice are also needed. These are absent in many land reform projects (Jacobs 2003). Although non-governmental organisations (NGOs) and elements of the private sector may be able to supply some of the support required, it is clear that the state will have to play the lead role. The goal must be to create an economic environment that fosters broadly based 'accumulation from below'.

International experience shows that elites tend to capture the benefits of land reform unless there are decisive shifts in power relations and a redistribution of political and economic power in favour of the poor. This will mean taking on the power of communal area elites, including traditional leaders, the renegotiation of terms and conditions of employment of both permanent and seasonal labour in the commercial agricultural sector, and addressing the concentration of economic power within agro-food commodity chains in the hands of big business. It is clear that this kind of restructuring will be realised only through struggle, and thus a further necessary condition of agrarian reform is political mobilisation by emerging social movements in the countryside.

*Paradigm shifts are required to focus state policies on agrarian reform.*

Four paradigm shifts are required to realise this vision of agrarian reform. The first involves the government recognising its central role in land and agrarian reform, and devoting sufficient resources to redistribution, restitution, tenure reform, small farm development and rural enterprise promotion. The state can use the market to acquire land to meet identified demand and undertake area-based planning for development, with the support of communities, NGOs and private sector expertise where appropriate, but must not remain

hidebound by the ideology of market-based development. Significant state support for the beneficiaries of land restitution is needed, and an adequate budget for implementing tenure reform must be secured from the National Treasury.

The second shift involves policy-makers questioning their scepticism about the potential for smallholder production and their consequent bias in favour of large-scale production.

The third involves placing the multiple and diverse character of the livelihoods of the rural poor, and emerging opportunities for petty commodity production, at the centre of policy (Andrew et al. 2003). This means that land and natural resources are vital, but cannot be the only focus of development: complementary forms of rural enterprise must also be promoted.

Fourth, the active participation of the 'beneficiaries' of agrarian reform in processes of policy-making, planning and implementation must be secured (Levin 2000; Cousins 2004b). To date only lip service has been paid to the notion of community participation.

*Land and agrarian reform requires a major investment in capacity-building as well as innovative institutional arrangements.*

Inadequate capacity for the implementation of land reform is a 'recurring problem' (Adams & Howell 2001). This has been the case in relation to government departments, local government bodies and NGOs in South Africa since 1994, and has hamstrung the implementation of land reform. This means that a concerted effort to strengthen the capacity of organisations active in rural areas is urgently required. Capacity-building has the following dimensions: ensuring that appropriate *policies* are in place; providing sufficient *funds* to implement policies; employing professional *personnel* in sufficient numbers to undertake a wide range of tasks; equipping staff with appropriate *skills and expertise* via a range of in-house training programmes; *structuring* the institutions to ensure efficiency and effectiveness; *streamlining systems and procedures*; *managing* programmes and projects effectively; and building systems (e.g. monitoring and evaluation) to maximise *learning from experience* and the inevitable mistakes that will be made.

Supporting institutional development at local community level is also crucial, and facilitates active participation by rural people in agrarian reform. The

experience of communal property associations and trusts established since 1996 to take ownership of land in redistribution and restitution projects is relevant here. Many of these are now dysfunctional. Constitutions have been poorly drafted and often misunderstood by members, and the rights of members (especially in relation to land and resource use) are often ill-defined. In some cases traditional leaders have contested the authority of elected trustees, and in others elites have captured the benefits of ownership (Cousins & Hornby 2002). The problems derive in large part from inadequate government oversight of and levels of support to these groups.

It is clear that coordination between government departments and programmes is a major problem, and that IDPs developed at local government level will not necessarily overcome the problem. New forms of institutional arrangement are required which integrate land acquisition and tenure reform with diverse forms of land development, including but not limited to agricultural production. One possibility worth investigating is the idea of district-based agrarian reform institutes, funded by central government but with strong links to both local government bodies and provincial government departments. Another idea worth pursuing is rural enterprise development centres (similar to those supported by the Mineworkers Development Agency), which seek to transform proactively the material conditions of petty rural enterprises, integrated wherever possible with land and natural resource-based livelihoods (Philip 2000). A third is the promotion of input and marketing cooperatives within land reform programmes.

### *Political feasibility*

The key weakness in South Africa's land reform programme to date has clearly been the lack of an organised political constituency in rural society, articulating a powerful rural voice able to counter the persistent urban bias in the country's politics and economics (Greenberg 2000, 2002, 2004). Both the government and the ANC regularly assert the importance of resolving the land question, but the very small annual budgets allocated to the departments of Land Affairs and Agriculture, as well as the general absence of internal policy debates, suggest that land and agrarian reform have been somewhat marginal to the core concerns of the ANC in power. Until the South African Communist Party's (SACP) recent decision to mount a campaign on the issue,

no political party has articulated a vision of radical agrarian reform. Most parties have focused primarily on urban political constituencies. Land sector NGOs have consistently advocated pro-poor policies and greater levels of state investment in rural areas, but their reach is limited and their impact on policy has been uneven and often very limited. Rural social movements pushing for fundamental change did not emerge on any scale in the 1990s.

Possible explanations for the marginality of the land question in recent South African political history include: (i) the strong emphasis by the liberation movement, from at least the 1960s, on mobilisation and organisation in urban areas, as a result of the growing strategic strength of the African urban working class after the Second World War, but perhaps reflecting also the fact that the movement 'underestimated the theoretical and practical significance of political aspirations and social movements in the countryside' (Drew 1996: 53); (ii) the nature of the negotiated political transition to democracy, involving both 'elite-pacting' and strategic compromises (e.g. over property rights) in order to ensure a non-violent transfer of power (Levin & Weiner 1996); (iii) the real marginality of rural areas, in both economic and political terms, in 21<sup>st</sup>-century South Africa, given ecological, demographic and social realities and constraints (see Walker's chapter in this book); (iv) the hegemonic grip of the 'efficient commercial farm' narrative within South Africa (see arguments earlier); and (v) the dominance of neo-liberal macroeconomic policies adopted by the ANC and the government, that have prioritised integration into a highly competitive, globalised capitalist economy, accompanied by the sidelining of asset redistribution and other pro-poor policies (Bond 2000).

However, four developments indicate that the political feasibility of radical agrarian reform may be on the rise. First, events in Zimbabwe have catapulted land reform into the headlines. Across the region, a variety of interest groups (including political parties, NGOs, farmers' unions, trade unions and donors) have responded to the implicit question: does the slow pace of land reform in their own country presage large-scale land invasions supported by powerful political interests? As to be expected, a wide range of responses are evident; more striking is the near-consensus across the political spectrum that: (i) an unresolved land question is a political time bomb; and (ii) progress in land reform in most countries in the region (but in particular those with large commercial agricultural sectors still dominated by white farmers) is too slow and needs to be speeded up (Cousins 2003).

Second, the rise of the Landless People's Movement (LPM), supported by the National Land Committee, has seen the government being challenged on the inadequacies of its land reform programme, not only by activists and academics, but by thousands of angry rural and urban residents. Although it is too early to pronounce on just how widespread the support for the LPM is, or how effective it is in organisational terms, there is no doubt that the LPM's calls for an end to farm evictions and for real progress in land redistribution have resonated widely amongst ordinary people.

Third, there are the beginnings of a real interest in land and agrarian reform by the largest trade union federation, the Congress of South African Trade Unions (Cosatu), and now by the SACP (Ndzimande 2004). Concern with rising food prices and food insecurity has been linked to the need to assist people to grow their own food. Calls by officials and policy analysts from the union movement for a review of government economic policy have increasingly included land reform as an important measure – for example, 'more equitable asset redistribution can be achieved through large-scale skills development, government services and infrastructure for the poor, support for small enterprises and land reform' (*Mail & Guardian* 05.10.2001).

Fourth, some policy analysts have begun to see land and agrarian reform as essential for addressing 'dualism', or the two economies problematic (Terreblanche 2002; Makgetla 2004; May et al. 2004). Scepticism about the contribution of land-based livelihoods to poverty reduction may be beginning to lessen in some quarters.

Taking these developments together, it is clear that renewed pressure for fundamental changes in government policies is now being exerted by a number of diverse interest groups, organisations and campaigns, and that the central importance of land and agrarian reform to poverty reduction and overcoming structural dualism is being recognised more widely than before. These help to create the conditions for rural social movements to begin to mobilise on a large scale, and to build alliances with other such movements. As Hart has suggested:

A key question is whether and how these diverse forces could link more closely with one another to form a broadly-based movement for redistributive social change and a secure livelihood – not as passive recipients of state largesse, but as active participants in a struggle for social and economic justice... (2002b: 29)

What of the commercial farmer lobby? In South Africa this interest group is powerful and well organised, and not to be underestimated. The largest farmers' union, AgriSA, has ensured that the commercial farming sector is regularly consulted by President Mbeki. A joint strategic plan for agriculture was signed in 2001 by the government, AgriSA and the National African Farmers' Union, and hailed by Mbeki as showing a 'new patriotism among us as South Africans' (*Business Day* 26.11.2001). Farm invasions in Zimbabwe have concentrated the minds of commercial farmers with remarkable effect:

...it was not until the events in Zimbabwe that farmers' representatives in South Africa began to link attacks on farmers with the slow pace of land reform...support for land redistribution from within organized agriculture has undoubtedly grown in reaction to events to the north. (Lahiff & Cousins 2001: 658)

However, what commercial farmers understand by land redistribution is highly problematic. Stressing the strategic importance of commercial farming for food production and also export earnings, commercial farmers are offering to assist with the mentoring of African 'emergent' commercial farmers. Implicit is their understanding that for the foreseeable future the latter are unlikely to constitute a large and powerful interest group capable of mounting a serious challenge to the dominant interests within the sector. AgriSA spokespeople are clear that in their view transferring land to 'subsistence farmers' under forms of communal tenure will be a national disaster.

Underpinning large-scale agriculture's strategic control of key food production and export earning subsectors within the economy, and strengthening their organisational power, is the power of the commercial farming narrative, the notion that only commercial agriculture is *real* agriculture. Countering the commercial agriculture lobby, then, will have to mean tackling its power both materially and ideologically. This remains a major challenge in South Africa.

### *Conclusion*

This chapter has suggested that the most appropriate analytical framework for understanding continuing inequality and deep poverty in rural South Africa is one drawn from radical political economy, and from analyses of the unresolved 'agrarian question of the dispossessed'. What is now required is a radical restructuring of agrarian economic space, property regimes and socio-



political relations, premised on the potential for 'accumulation from below' in both agricultural and non-agricultural forms of petty commodity production, and expanded opportunities for 'multiple livelihood strategies'.

The state must become the lead agency in processes of agrarian restructuring, assisted by progressive elements of civil society, and ensure that national policies are integrated into provincial and local government planning. Area-based planning could be a powerful mechanism for ensuring coherence, and help to integrate diverse elements. Capacity needs to be built to realise this ambitious vision, and innovative institutional arrangements need to be developed.

Policy advocacy has to be grounded in political dynamics. As recent events in Zimbabwe so clearly demonstrate, changes in the balance of forces can dramatically alter the terrain of land reform policy, and a crucial variable is the degree of mobilisation and organisation of rural people themselves – always recognising that this population is highly diverse and internally differentiated, and that collective interests are not simply givens but have to be constituted by 'political leadership and political choice' (Bernstein 1997: 30). In the end it is political factors, rather than rational argument, that will determine the content of land and agrarian reform in years to come.

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