



Land reform in South Africa is sinking. Can it be saved?¹

Ben Cousins²

1. Introduction

What is going wrong in South Africa's post-apartheid land reform programme, and how can its failings be addressed? Twenty two years after the transition to democracy and the commencement of land reform, there is a great deal of lived experience to reflect upon and a rich literature to draw on. Here I offer a diagnosis of failures, suggest a new narrative for land reform, and offer some provocations around alternative policies. The paper argues that the logic of land reform as a whole needs to be re-thought, rather than merely tinkering with details.

Land grabbing over nearly 350 years of South African history saw the loss of key productive resources by indigenous populations and erosion of their rights to land and natural resources.³⁶ Women's land rights were severely undermined, especially in areas where land was held and governed within systems informed by custom.⁹ Spatial inequalities defined by race were hard-wired into the South African capitalist economy from its very beginning, partly as the basis for a cheap-labour regime involving circular migration.⁴⁷ Social differences and inequalities based on a complex articulation of race, gender and class identities thus underpinned the unequal distribution of land and insecure rights to land.⁴⁴ The legal system underwrote the

¹ A provocation commissioned by the Nelson Mandela Foundation

² DST/NRF Research Chair in Poverty, Land and Agrarian Studies, University of the Western Cape

unequal land dispensation: private property rights to land and housing were not on offer to most black South Africans, or were allowed on highly discriminatory terms, and the legal system helped to legitimize forced removals.³¹

The nature of the ‘Land Question’ in South Africa is inherently complex. Post-apartheid land policies must provide redress for historical injustice at the same time as creating sustainable livelihoods through production, employment creation and equitable forms of growth. How can it do so?

2. Land reform policies: a critical assessment

(a) The Mandela years: 1991 to 1999

A constitutional framework for land reform was agreed in difficult negotiations. The property clause provides protection for property rights but land reform is defined as in the ‘public interest’, thus allowing for expropriation at compensation levels that are ‘just and equitable’ rather than at market value. It provides a right to restitution of land dispossessed after June 1913, and a right to security of tenure, in both cases along with measures for comparable redress (cash compensation or alternative land) when appropriate.³⁷

Access to land through redistribution is not a right, but the state must take ‘reasonable measures’, ‘within its available resources’, to foster conditions enabling equitable access to land. Government adopted a willing buyer, willing seller approach to land acquisition for purposes of redistribution, and prices paid have generally been around market value.²⁰ Compensation for land acquired for restitution has also been at market value, and very few expropriations for land reform purposes have occurred since 1994.

Government’s early vision of land reform emphasized its multiple objectives: addressing dispossession and injustice; creating a more equitable distribution of land; reducing poverty and assisting economic growth; providing security of tenure; establishing sound land administration; and contributing to national reconciliation. The rural poor (seen as comprising victims of land dispossession, small-scale farmers,

farm workers, labour tenants, communal area residents, women and youth) were to be the primary beneficiaries.²⁰

Progress was slow in the first five years of land reform, and most targets were not met (e.g. redistribution was nowhere near the target of 30% of commercial farm land within 5 years). Pilot schemes soon hardened into policy, arguably undercutting the 'learning process'. Although land reform projects were exempt from restrictions of subdivision, in practice large groups of people were expected to operate farms as unitary commercial enterprises. Restitution was transformed from a cumbersome, courts-driven process into one with considerable administrative leeway, but relatively few land claims were settled. The Land Claims Commission found it challenging to provide effective post-settlement support.⁴⁴

A host of new land laws were passed, aimed mainly at securing land rights. Farmworkers and dwellers were protected from arbitrary evictions. The occupation and use rights of labour tenants were protected, but tenants or former tenants could also apply for ownership of the land they occupied. Communal Property Associations (CPAs) allowed groups to hold restored and redistributed land. Communal tenure, however, was highly politicized as a result of the lobbying power of chiefs, and progress in developing a policy framework was slow and incomplete.³⁴

Agricultural policies were uncoupled from land policies, and both from water policies¹⁵ and initially focused on deregulation and liberalization. Subsidies for credit, inputs and exports were abolished and the single channel marketing system, with fixed prices, was dismantled.⁵ These measures were portrayed as progressive because they removed state support for privileged white farmers. But large-scale programmes of support for small-scale black farmers and land reform beneficiaries, despite being identified as a key need, were notable by their absence.

(b) The Mbeki era: 1999-2009

In 1999 policy priorities shifted from meeting the needs of the poor to servicing a group of aspirant black commercial farmers. Market efficiency and the deracialization of commercial farming received renewed emphasis. A 'land redistribution and

agricultural development' programme replaced earlier policy frameworks, to be was complemented by a 'comprehensive agricultural support programme'.²⁴

The means test for those applying for land redistribution grants was removed, but in practice relatively few applicants were at the upper end of a sliding scale of grants. Many of the problems experienced in the first five years of land reform resurfaced: official processes remained cumbersome and slow, plagued by poor co-ordination between different departments and spheres of government. Group projects saw beneficiaries continuing to pool their grants to purchase large farms, but they were not allowed to subdivide these.²⁴

The large-scale commercial farming model continued to dominate planning and thinking about post-settlement support.^{23, 24} Consultants based in the large-farm sector remained the main source of expertise for processes of farm business planning, and there was often a large gap between business plans and the needs, desires and capacities of beneficiaries.^{25, 28}

Project failures contributed to a public perception that land reform was in trouble. A National Land Summit held in 2005 agreed on a review of 'willing seller, willing buyer', the expanded use of expropriation, and a proactive role for the state. The following year saw several new policy thrusts: area-based planning, a proactive land acquisition strategy, a draft Expropriation Bill, and reports on foreign land ownership, land ceilings and land taxes.²⁴ The ANC's National Conference in Polokwane in 2007 emphasized the need for an 'integrated programme of rural development, land reform and agrarian change'.

Little came of these new directions. Area-based planning was consultant-driven and desultory, and pro-active land acquisition was reduced to the state purchasing farms and leasing them to redistribution applicants for 3-5 years.²³ Rhetoric about land reform for smallholders disguised the complete neglect of small-scale producers, with funds for comprehensive agricultural support largely directed to a minority of larger-scale producers. Land restitution continued to grind slowly on, hampered by a small budget, capacity problems and inadequate funds for post-settlement support.⁴⁴

Tenure reform was the orphan programme. The department devoted few resources to implementing the Land Reform (Labour Tenants) Act of 1996 or the Extension of Security of Tenure Act of 1997 (ESTA), and CPAs and land-holding trusts were neglected.¹² Evictions of workers from commercial farms continued, pre-emptively and in response to competitive pressures, indicating the weakness of the legal system.⁴⁶ The Communal Land Rights Act was passed in 2004, premised on transferring ownership of land from the state to traditional councils under chiefs. It was never implemented, and in 2010 was struck down by the Constitutional Court on procedural grounds.⁹

(c) The Zuma period: 2009 – 2016

After 2009 rural development, food security and land reform were identified as priorities of the Zuma government and the Department of Rural Development and Land Reform (DRDLR) was created. A raft of policy statements have appeared over the past seven years, some highly controversial,²⁷ but practical measures to implement them have been slow to materialize.

One new direction was a Comprehensive Rural Development Programme (CRDP) aimed at creating ‘vibrant and sustainable rural communities’. This is targeted at ‘nodes’ in wards where poverty is deep, and involves para-development specialists training community members to be gainfully employed in a range of micro-projects. DRDLR sees itself as playing a coordinating role in partnership with other government departments and local government bodies. A recent evaluation of the CRDP commissioned by the Presidency identified multiple problems, including, predictably, tensions with other line departments, and only short-term job creation through infrastructural development. In essence, the CRDP constitutes a Bantustan-era approach to ‘development’, in that it does nothing to address structural realities.

A Green Paper on Land Reform was published in August 2011, but was only eleven pages and contained only general statements of principle. No other framework for land reform policy has appeared since then. The main focus of the Green Paper is on a ‘four tier’ tenure system, comprising leasehold on state land; freehold ‘with limited

extent’, implying restrictions on land size; ‘precarious’ freehold for foreign owners (i.e. with obligations and restrictions); and communal tenure.

The Restitution of Land Rights Amendment Act of 2014 opens up land claims for another five years, until 2019. This could jeopardize thousands of existing claims, including by labour tenants, that have not been settled, as well as another 20,000 that are settled but not yet implemented.¹⁹ These could be swamped by new claims lodged since 2014, which already number over 120 000. In addition, government seeks to open up the claims process to traditional leaders.⁸ It is unlikely that the hundreds of billions of rand required to settle an estimated 397,000 claims will ever be available.⁴⁵ The Amendment Act has recently been challenged in court, on both substantive and procedural grounds.

The State Land Lease and Disposal Policy (SLLDP) of 2013 applies on farms acquired through the proactive land acquisition strategy.²¹ It identifies four categories of beneficiaries: (1) households with no or very limited access to land; (2) small-scale farmers farming mainly for subsistence and selling some produce locally; (3) medium-scale farmers already farming commercially but constrained by insufficient land; and (4) large-scale commercial farmers with potential to grow but disadvantaged by location and farm size.

This policy is biased towards medium-scale and large black commercial farmers.²⁷ It assumes that there will be only one lessee per farm, and no mention is made of subdividing large farms. Categories 1 and 2 include labour tenants and farmworkers, who will be leased state land at a nominal rental of R1 per annum, without any option to purchase. But it is not clear that there are any projects that actually involve these categories. Categories 3 and 4 are leased state land for 30 years, with leases renewable for another 20 years, and will then have an option to purchase. The first five years of the initial lease is treated as a probation period, and no rental is paid in this period. Thereafter the rental is calculated as 5 per cent of projected net income, as projected in approved business plans drawn up by consultants.

The Recapitalisation and Development Policy Programme (‘Recap’) of 2014 replaces all previous forms of funding for land reform, including settlement support grants for

restitution beneficiaries.²¹ Business plans written by private sector partners or officials will be used to guide decision-making. Funding is for a maximum of five years. Beneficiaries must have business partners recruited from the private sector, as mentors or ‘co-managers’, or within share-equity schemes, or through contract-farming.

The Presidency commissioned a mid-term evaluation of the Recap programme in 2013 that reveals its elite bias. Its core aim is ‘commercialisation’ of land reform projects. Large sums are spent on relatively few beneficiaries, few jobs have been created, and access to markets for produce remains limited. In the six provinces covered in the assessment, an average of around R3.5 million was spent per project, around R520 000 per beneficiary, and job creation cost R645 000 per job. Some mentors and partners are milking projects, and pay little attention to skills transfer.

The Agricultural Landholding Policy Framework of 2013 proposes that the government designate maximum and minimum landholding sizes in every district.²¹ District land reform committees will determine floors and ceilings by assessing a wide range of variables (including climate, soil, water, production output, economies of scale, capital requirements, numbers of farmworkers, distance to markets, infrastructure, technology and price margins). It seems unlikely that many officials will have the necessary expertise.²⁷ Holdings in excess of the ceiling will be trimmed down through ‘necessary legislative and other measures’, possibly through giving the state the right of first refusal on land offered for sale or expropriation. A review of experience in India, Egypt, Mexico, the Philippines and Taiwan revealed that land ceilings have ‘not lived up to expectations’.²¹

A 2014 policy document on ‘Strengthening the Relative Rights of People Working the Land’, also known as the ‘50/50’ policy, has not yet been approved. Each farm owner is to retain 50% ownership of the farm, ceding the other 50% to workers, whose shares in the farm will depend upon their length of ‘disciplined service’.²¹ While couched in ‘radical’ language, this offers workers very little, but promises farm owners a massive windfall of public money. It is unclear if the scheme is to be compulsory or voluntary.

Ironically, in 2009 a moratorium was placed on farm equity schemes, based on a government study never made publicly available. The Minister indicated that ‘of the 88 farm equity share projects implemented between 1996 and 2008, only nine have declared dividends’. The policy is illogical, costly and liable to benefit farm owners rather than workers.²⁷ A few pilots have been announced but no details are available.

Tenure reform remains neglected. Farm workers and farm dwellers continue to be vulnerable to eviction, and only cosmetic and inappropriate amendments to ESTA have been proposed. Thousands of labour tenant claims have been ignored, and only recent court action has forced the department to commitment itself to resolving them. Communal tenure reform policy, although not yet embodied in law, continues to be focused on the transfer of land ownership to traditional leadership structures, with community members offered only ‘statutory use rights’.¹¹

(d) Overall impacts, 1994 -2016

What have been the impacts of land reform to date? In 22 years, land reform has barely altered the agrarian structure of South Africa, and has had only minor impacts on rural livelihoods. Around 8-9% of farmland has been transferred through restitution and redistribution, and many settled restitution claims have not been fully implemented. The great majority of 69 000 urban restitution claims have been settled through cash compensation.⁴⁴

No systematic data on impacts are available via M&E data or other sources. Case study evidence suggests that around half of rural land reform projects have brought improvements in the livelihoods of beneficiaries – but often these are quite limited.¹⁸ It is unclear how many recorded ‘beneficiaries’ still reside on or use transferred land, or benefit from land reform in any way; case study evidence from Limpopo suggests a relatively small proportion.⁴ Institutions such as CPAs through which land reform beneficiaries hold land in common remain poorly supported are often dysfunctional.¹² Joint ventures between claimant communities and private sector partners have experienced major problems.⁴

Tenure reform has largely failed. Farm owners have worked out how to evict unwanted workers within the parameters of ESTA, or to (illegally) ‘buy out’ their rights, and have done so in large numbers.^{43, 46} In communal areas, the only legislation that secures the land rights of residents is the Interim Protection of Informal Land Rights Act of 1996, which has had to be renewed every year. There are increasing reports of corruption by traditional leaders in areas with minerals.^{10, 30} Chiefs are now seeking to extend the territories under their control through restitution claims lodged under the 2014 amendment.^{8, 45}

3. Diagnosis: what has gone wrong with land reform?

(a) Policy frameworks lack coherence

The objectives and strategic thrust of land reform remains unclear, and the key categories of people intended to benefit are not specified clearly enough. This is partly because it has not been conceived of as part of a wider process of agrarian reform aimed at restructuring the class structure of the rural economy.¹⁵ Agricultural and land policies have not been clearly linked. Little real support for black smallholder farmers has been on offer, and no land reform farms have been officially sub-divided. Informal agricultural markets are ignored. Spatial targeting of land and beneficiaries in zones of opportunity and need (e.g. farms located on the edges of densely settled former Bantustans, and on urban edges) has been absent, and local government has barely been involved in planning and implementation. Water reform and land reform have barely touched sides, and urban land has been dealt with separately from rural land.

(b) Private ownership is seen as the most desirable form of tenure but is an inappropriate system for most South Africans at present

For policymakers private ownership with registered title deeds seems to constitute the ‘gold standard’ for land tenure. However, in 2011 some 60% of South Africans occupied land or housing without their rights being recorded in official systems such as the Deeds Registry. This includes 17 million people in communal areas, 2 million on commercial farms, 3.3 million in informal settlements, 1.9 million in backyard

shacks, 5 million in RDP houses without title deeds, and 1.5 million in RDP houses with inaccurate title deeds. Their claims to property cannot meet the stringent requirements of the cadastre and remain ‘off-register’.²⁶ On land reform farms, beneficiaries often lack clearly specified rights to the land they hold through CPAs and trusts.

Other than on commercial farms, informal land tenure systems can be characterized as ‘social tenures’. They are often characterized by local oversight of processes of claiming rights and resolving disputes, and social relations and identities directly inform the recognition of rights, as well as of institutional arrangements.³⁵ A key criterion is need, rather than ability to pay. These tenure systems are oriented to processes rather than well-defined rules, display a great deal of flexibility, and confer *de facto* tenure security to large numbers of people.^{9, 13, 35}

But people inside such systems also experience many problems. The ‘second-class’ legal status of these tenures means that the state does not provide much oversight of their functioning, and they cannot always prevent abuse, including gendered forms of discrimination. Local institutional arrangements are often ineffective in contexts such as new informal settlements, or where informal land markets develop, and social tenures are not well served by planning and service delivery. Land reform has done little to date to secure these rights.²⁶

(c) Unexamined assumptions undercut effective policy

Assumptions are a major constraint on policy:

- The large-scale commercial farm model informs assessments of ‘viability’ but hobbles attempts to support smallholder farming.¹⁷
- The rural poor and smallholder farmers are often seen as homogeneous groupings, but are in fact socially differentiated. As a result, targeting is ineffective.

- Measures to promote the informal economy, including markets for food, are absent, as a result of assumptions that only formal markets count and that small-scale producers can easily be integrated in to them.
- Land reform focuses mainly on rural areas but urbanisation and growth of informal settlements, some on communal land in peri-urban areas, means that key needs and opportunities are missed.
- Planning processes that see people as passive ‘beneficiaries’ rather than active participants in co-planning are problematic, and lead to inappropriate project design.

(d) Elites have captured the policy agenda

Land reform has been captured by elites. The most powerful voices are those of ‘emerging’ black capitalist farmers (often with non-farm incomes), traditional leaders, large-scale white commercial farmers and agribusiness corporates, who are all benefitting more than the poor.¹⁶

This has arisen in part because a once-effective civil society sector has lost capacity: most of its leadership went into government or consultancy, and its voice is barely heard except in relation to issues of traditional leadership. Farmworkers are weakly unionised, and small-scale farmers do not have their interests adequately represented within organisations such as the African Farmers Association of South Africa (AFASA).

Communal area residents have few forums in which they can make their voices heard, although in areas where deals have been struck between traditional leaders and mining companies, they have begun to defend their land rights.³⁰ It is true that a wildcat farmworker’s strike in the Western Cape in 2012 managed to have the minimum wage increased by 50%, but this has not stemmed the tide of mechanisation (and evictions) on commercial farms.⁴³ Workers’ demands for land of their own were ignored by government.

Small wonder, then, that Minister Nkwinti has been able to announce that government now seeks to ‘recreate a class of black commercial farmers’, or that traditional leaders have seen their objective of being granted private ownership of communal land receive the blessing of official policy. Or that white commercial farmers and consultants have been offered lucrative opportunities to act as partners and mentors to beneficiaries.

(e) Land reform is politically misdirected

To many South Africans, land continues to signify ‘home’ and a sense of belonging. The loss of land serves as a powerful symbol of generalised oppression and dispossession, and carries a profound political charge. And not just those living in rural areas - many urban dwellers are familiar with forced removals as key stories in family histories. It is no surprise that political parties often invoke land dispossession and the need for redress in attempts to mobilise supporters. Political rhetoric draws on a narrative in which white farmers and foreigners are the villains, black South Africans are the victims, and government (or an opposition party, or civil society activists) are heroes rising to the rescue. A political imaginary centred on race tends to dominate land discourse.

In this context, the ruling party is being challenged by the Economic Freedom Fighters, which calls for confiscatory land reform without compensation. The ANC reacts by issuing radical-sounding policy statements that disguise the elite bias of current policies. Vote catching is a key consideration, and probably explains the 2014 decision to extend the period for lodging of new restitution claims.

(f) State capacity is inadequate

Land reform is necessarily complex and time-consuming. ‘State capacity’ is crucial, and comprises strong leadership and management, adequate budgets, appropriate policies, sound institutional structures, efficient procedures and an effective system for monitoring and evaluation (M&E).

All of these have been problematic, and DRDLR is known as one of the weakest of government departments. M&E is critically important if mistakes and false starts are to be key sources of lessons, but in relation to land reform has been highly ineffective. The lack of adequate data on the rural economy provided by StatsSA compounds the problem.² One inadequate national survey of small-scale agriculture has been undertaken since 1994, and the census does not collect data on farm size.

(g) The constitutional framework is not a constraint

The property clause, which requires compensation to be paid for land acquired by the state, is not a fundamental constraint at present. Acquiring farms at prices below market value is possible, given that compensation must be ‘just and equitable’. At prices much lower than say, 15% below market value, land reform would probably be slowed to a crawl by court action.³ More importantly, if the budget for land reform increased from its present level of 0.4% of the national total, for example to 2%, then land purchase would be eminently affordable. Insufficient political will is more of a constraint than the constitution.

In other respects the constitution is enabling of land reform, rather than disabling. In particular, Section 25(6), which requires that the state secure the land rights of black South Africans, is of key strategic significance. All forms of property are protected, not only private property. Given evidence of attempts at state capture by elements of capital, and the woeful human rights record of mining operations in communal areas, measures to protect the poor from dispossession are urgent. Litigation and linked struggles must attempt to compel the state to meet its constitutional obligations to secure tenure, without requiring private ownership.

4. A new narrative for land reform: reconfiguring agrarian structure and protecting land rights

Land reform needs to make a fresh start, on the basis of a clear vision of how it can contribute to addressing structural inequality and poverty. This vision should be tempered with pragmatism, acknowledging with Confucius that ‘better a diamond with a flaw than a pebble without’.

We should accept that land and agrarian reform by itself is unlikely to reduce the poverty of most of the rural population. The creation of jobs and non-farm livelihood opportunities for the majority of the population in both urban and rural areas, should be the issue at the centre of national politics. However, a re-invigorated and well-targeted programme land reform, together with the creation of new irrigation schemes, could make a substantial difference to many households, creating perhaps a million new jobs, as the National Development Plan suggests.³²

Structural realities to be taken account of include the concentration of agricultural production in the hands of a small, productive core of capitalist farming enterprises, who are serviced by and supply a few large agribusiness companies.⁶ In 2002 only 5 370 farming enterprises (or 12% of the total of 45 800 farming units) contributed around 62% of total turnover.⁴² Today the proportion of value produced by the top 20 per cent of farm enterprises is likely to be even higher – perhaps 80%.¹⁶

Concentration has been driven by integration into global markets, increased competition, economies of both scale and scope, and specialisation. These have been accompanied by a drastic reduction in the number of workers employed; current formal sector employment on farms stands at around 400 000.⁴³

In communal areas, 2 million households engage in some form of agricultural production, producing crops as a main or extra source of food. A minority of small-scale black farmers, numbering around 200 000, sell farm produce to markets as a main or extra source of income. Most supply informal markets, often via sales to *bakkie* traders. These ‘loose value chains’ are poorly documented and largely ignored by policy-makers. A much smaller number of black farmers, perhaps 5 000 to 10 000, supply formal markets.¹⁶

Radically reconfiguring the country’s agrarian structure should be the main focus of land and agricultural policy, and this will clarify who should be the key beneficiaries of reform. However, securing tenure rights should remain a key objective of land reform, in urban as well as rural areas, and focus on legal recognition of social tenures

rather than on private titling. This will assist in poverty reduction efforts more generally.

It is important to ensure that land rights connect in practical ways to production, employment and livelihoods: ‘you cannot eat rights’, as suggested by AIDS sufferers in Zambia.²⁹ Land rights involve much more than the law, and rights must be able to be realised in practice. Local political struggles are often required, such as those engaged in by women challenging patriarchal power relations. Land and agrarian reform must thus include oversight of rights-based approaches and support for such struggles.

5. Policy provocations

- (i) Redistribute the land belonging to 80% of commercial farming enterprises to market-oriented smallholder farmers

The increasingly concentrated agricultural economy has shaken out a large number of white farmers who in the past depended heavily on state support. However, many relatively unproductive farmers remain on the land, and their farms constitute a key resource for land redistribution. This land can be acquired relatively easily and cheaply. The top 20% of producers, around 7 000 highly capitalised farming operations, could then be left alone for two decades or so, ensuring that land and agrarian reform does not put urban food security and agricultural exports at risk.

The recipients of the land of the other 80% of farming units should be the 200 000 black smallholder farmers who already produce crops and livestock for sale. Policies should aim to support a process of ‘accumulation from below’, in which access to more land and water, plus well-designed support programmes, provides a platform for increasing levels of output from labour-intensive enterprises.¹⁴ A key spatial focus for smallholder-oriented land reform should be peri-urban zones, located close to urban informal food markets. Subdivision of large farms must be promoted.

Water for irrigation of vegetables and fruit is critically important. The proposal in the National Development Plan that more land be brought under irrigation needs to be

urgently investigated, and a realistic target set. The reallocation of water rights to land reform beneficiaries must proceed along with land transfer. If the NDP is correct that the market for fresh vegetables will grow by 60% over the next ten years, this represents a major opportunity.³²

- (ii) Acquisition of land via market purchase is feasible and changing the property clause is both unnecessary and divisive

Land for redistribution can be acquired through purchase from willing sellers, or through expropriation if needs be. If a formula for 'just and equitable compensation' is agreed that brings the price of land down to 15-20% below market value, then the costs will be slightly reduced. Government needs to develop valuation and purchasing skills to service land reform, an understanding of smallholder farming systems, and to be clear about who will get land for what purposes. Land purchases to meet the 80% target over two decades will need the land reform budget to be increased, perhaps to 2% of the total. This is a small price to pay for resolving the emotive and potentially destabilising 'Land Question'.

- (iii) Focus on supporting smallholder farming systems and informal agricultural markets

Black smallholder farmers currently tend to supply informal traders and loose value chains with less demanding requirements than those of supermarket chains and formal markets. The key crops to focus on are thus vegetables and subtropical fruit, but a million black households keep animals, and millions of rand are spent every year in local ritual markets.³⁸ Livestock production should also be supported, in particular herds of small livestock owned by women.¹

Informal markets for smallholders could be actively supported by municipalities, for example by improving road access to farms, supporting auction sales of goats and sheep, and offering public space for informal food markets. Contracts to supply public institutions such as schools, hospitals and prisons should be considered. As experience develops and their farms become more capitalised, some small-scale producers will begin to supply formal markets, and government could then consider

requiring supermarkets to meet quotas for smallholder produce. Farmer co-operatives that purchase inputs in bulk and market collectively could bring down transaction costs of these activities.

- (iv) Secure informal land rights in urban and rural areas, including on redistributed and restored land

Private ownership through individual titling is at present an option only for people who are upwardly mobile and able to pay the high costs involved. At present, however, it is not a realistic option for the large numbers of people not in this bracket, for whom social tenures are much more likely to offer secure property rights, especially if they are officially recognized.²⁶

Adopting an alternative paradigm for tenure reform has major implications for development planning and service delivery. If social tenures are to be properly recognized and supported, then high levels of precision in surveying of plots of land would need to be modified; social and territorial boundaries that are flexible would have to be accepted; co-ownership would need to be registered; township development procedures would need to be adjusted; new systems for the collection of rates would have to be developed; and professionals such as lawyers, surveyors and planners would have to be re-trained. Most importantly, new sets of skills would have to be developed to support the processual dimensions of land holding: facilitation, mediation, dispute resolution, and oversight of governance.

- (v) Increase state capacity for land and agrarian reform

To be renewed, land and agrarian reform requires strong new political leadership to develop transformative but realistic policies. Budgets will have to be considerably increased. Training of officials and extension staff within a revitalised bureaucracy is urgently needed, too, as are improvements in institutional structure, procedures and systems for data collection and analysis. Amalgamation of the two departments of land reform and of agriculture would promote coherence, but would have to be underpinned by critical re-examination of current narratives of ‘viability’.¹⁷

Rebuilding the capacity of the South African state is a daunting task, but surely not impossible.

- (vi) Settle the majority of restitution claims through cash compensation

In my view land restitution has proved to be a mistake. It is complex, cumbersome, conflict-ridden, expensive, consumes scarce capacity and yields few sustainable benefits. The past has been a poor guide to land reform in the present. The extension of the period for lodging land claims until 2019 is an even bigger mistake, and is generating expectations that will be difficult to meet.

Given that relatively few claimants desire to be producers on the land, it may be wise to seek closure by the payment of compensation through standard settlement offers, as for most urban land claims, e.g. at R70 000 per claim. In some instances, where it is clear that claimants genuinely want to farm, restoration of at least some of the land should be considered, and in some contexts joint ventures with private sector partners will make sense. The department needs to focus primarily on land redistribution and tenure reform, the most important thrusts of land reform.

- (vii) Cancel the CRDP and make rural development the responsibility of local government

The Comprehensive Rural Development Programme is an expensive and ineffective distraction. The co-ordination of developmental investment in rural areas should be left to local government bodies. The current weakness of such bodies is clearly a major problem, and strengthening their capacity, as with core national departments, is unavoidable. In relation to agriculture in communal areas, efforts to enhance household food security should be the main focus of support, and be aimed at women in particular. Fencing, inputs, water tanks and training are the key ingredients,²² as well as technologies that reduce the mortality rate of small livestock.¹

- (viii) Address inequalities of class, race and gender simultaneously

Resolving the ‘Land Question’ in the post-apartheid period means addressing the intertwined oppressions of race, gender and class. The student movement has recently put intersectionality on the agenda of social transformation, asking us to consider the systemic, inter-connected nature of oppression in general. What does this mean for land reform?

One possible answer, building on the provocations above, is that land reform should aim to address all three dimensions simultaneously. This is because ‘class relations are *universal* but not *exclusive* “determinations” of social practices in capitalism’.⁶ Changes in class and gender relations must thus be present at the core of redistributive programmes that address racial inequality, or we risk changing only the colour of the dominant elite. Similarly, narrowly conceived attempts to reduce gendered inequalities could benefit middle and upper class women only. A narrow form of class-oriented reform could benefit men at the expense of women. But changing class realities must surely be seen as at the core of land reform, grounding struggles against other kinds of oppression in its attempts to open up space for new kinds of livelihood opportunities.

6. Conclusion

Strong leadership is needed to turn around the foundering ship of state and make it more effective, as well as more responsive to the needs of ordinary South Africans. Pressures from below that challenge the elite capture inherent in current policies are likely to grow stronger over time, and demands for large-scale investment by both the state and capital in employment-generating sectors, including agriculture, will surely increase. One danger is that a simplistic form of populism will assert itself, emphasizing the racial (and perhaps gendered) aspects of land and not taking into account the underlying class dynamics. Realism demands that the latter be the cornerstone of land reform policies, accompanied by measures to address gender and racial inequality, in seeking to attack the structural underpinnings of widespread poverty.

Acknowledgments: many thanks to Ruth Hall and Donna Hornby for comments.

References

1. Alcock, R. 'The Curious Case of the Unknown Farmers' (Cape Town, 2013).
2. Aliber M. et al., *Strategies to Support South African Smallholders as a Contribution to Government's Second Economy Strategy Project*, vol. 1 (Cape Town, 2010).
3. Aliber, M. 'Unravelling the "willing buyer, willing seller" question', in: Cousins, B and Walker, C (eds.) *Land Divided, Land Restored* (Johannesburg, 2015).
4. Aliber, M., T. Maluleke, T. Manenzhe, G. Paradza and B. Cousins, *Land Reform and Livelihoods: Trajectories of Change in Limpopo Province, South Africa* (Cape Town, 2013)
5. Bayley, B. *A Revolution in the Market: The Deregulation of South African Agriculture* (Oxford, 2000).
6. Bernstein, H. *The Class Dynamics of Agrarian Change*. (Halifax, 2010).
7. Bernstein, H. 'Commercial Agriculture in South Africa since 1994: "Natural, Simply Capitalism"', *Journal of Agrarian Change*, 13 (1), 2015.
8. *City Press*, 'King Goodwill Wants His Kingdom Back'. 6 July, 2014.
9. Claassens and B. Cousins (eds.), *Land, Power and Custom: Controversies Generated by South Africa's Communal Land Rights Act* (Cape Town, 2008).
10. Claassens, A. and B. Matlala, 'Platinum, Poverty and Princes in Post-apartheid South Africa: New Laws, Old Repertoires', in: G. Khadiagala, P. Naidoo, D. Pillay and R. Southall (eds), *New South African Review 4* (Johannesburg, 2014).
11. Claassens, A., 2015. 'Law, land and custom, 1913-2014: What is at stake today?' in: Cousins, B and Walker, C (eds.) *Land Divided, Land Restored* (Johannesburg, 2015).
12. Council for Scientific and Industrial Research (CSIR). *Diagnostic Study into the Functioning of the Communal Property Associations in Land Reform in South Africa* (Pretoria, 2005)
13. Cousins, B. "More than socially embedded: the distinctive character of 'communal tenure' regimes in South Africa and its implications for land policy", *Journal of Agrarian Change*, 7 (3): 2007.
14. Cousins, B. 'Smallholder Irrigation Schemes, Agrarian Reform and "Accumulation from Above and from Below" in South Africa', *Journal of Agrarian Change*, 13, 1, 2013.

15. Cousins, B. 'Land and agriculture uncoupled: The political economy of rural reform in post-apartheid South Africa', in Hebinck and Cousins (eds.), *In the Shadow of Policy* (Johannesburg, 2013).
16. Cousins, B. "'Through a glass darkly': towards agrarian reform in South Africa", in: Cousins and Walker (eds), 2015. *Land Divided, Land Restored*. (Johannesburg, 2015).
17. Cousins, B. and I. Scoones, 'Contested Paradigms of "Viability" in Redistributive Land Reform: Perspectives from Southern Africa', *Journal of Peasant Studies*, 37, 1, 2010.
18. Cousins, B. with A. Dubb, 'Many Land Reform Projects Improve Beneficiary Livelihoods' (PLAAS Land Reform Fact Sheet 4, Cape Town, 2013).
19. Cousins, B., R. Hall and A. Dubb, 2014. 'The Restitution of Land Rights Amendment Act of 2014. What are the real implications of reopening land claims? PLAAS Policy Brief 34 (Cape Town, 2014).
20. Department of Land Affairs (DLA), *White Paper on South African Land Policy* (Pretoria, 1997).
21. Department of Rural Development and Land Reform (DRDLR). 'Green Paper on Land Reform' (Pretoria, 2011); 'State Land Lease and Disposal Policy' (Pretoria, 2013); 'Policy for the Recapitalisation and Development Programme of the Department of Rural Development and Land Reform' (Pretoria, 2013); and 'Agricultural Landholding Policy Framework: Setting Upper and Lower Bands for the Ownership and Use of Agricultural Landholdings' (Pretoria, 2013); Restitution of Land Rights Amendment Act, No. 15 of 2014.
22. Fay, D. 'Cultivators in Action, Siyazondla Inaction? Trends and Potentials in Homestead Cultivation', in Hebinck and Cousins (eds.), *In the Shadow of Policy*. (Auckland Park, 2013).
23. Greenberg, S. *Status Report on Land and Agricultural Policy in South Africa, 2010* (Cape Town, 2010).
24. Hall, R. 'Mapping ANC Policy Development on Land and Agrarian Reform since 1994', In: Cousins, B and Walker, C (eds.) *Land Divided, Land Restored* (Johannesburg, 2015).
25. Hebinck P. and B. Cousins, *In the Shadow of Policy. Everyday Practices in South Africa's Land and Agrarian Reform*. (Johannesburg, 2013).

26. Hornby D., Kingwill R., Cousins B. and Royston L. (eds), *Untitled: Securing land tenure in urban and rural South Africa* (forthcoming).
27. Institute for Poverty, Land and Agrarian Studies (PLAAS) and Centre for Law and Society (CLS). Position papers for National Land Tenure Summit (Cape Town, 2014).
28. Lahiff, E. *State, Market or the Worst of Both? Experimenting with Market-based Land Reform in South Africa*. (Cape Town, 2007).
29. Muzyamba, C., E. Broaddus and C. Campbell. “‘You cannot eat rights’”: a qualitative study of views by Zambian HIV-vulnerable women, youth and MSM on human rights as public health tools’, *BMC International Health and Human Rights*, 15: 26, 2015.
30. Mnwana, S., ‘Mining and ‘community’ struggles on the platinum belt: A case of Sefikile village in the North West Province, South Africa’, *The Extractive Industries and Society* 2, 2015.
31. Murray, C. and C. O’Regan (eds.), *No Place to Rest: Forced Removals and the Law in South Africa* (Cape Town, 1990).
32. National Planning Commission, *National Development Plan: Vision for 2030* (Pretoria, 2012).
33. Ntsebeza, L. ‘Land Redistribution in South Africa: The Property Clause Revisited’, in L. Ntsebeza and R. Hall (eds.), *The Land Question in South Africa: The Challenge of Redistribution and Transformation* (Cape Town, 2007),
34. Ntsebeza, L. *Democracy compromised: Chiefs and the politics of land in South Africa*. Cape Town, 2006).
35. Okoth-Ogendo, H.W.O. ‘The Nature of Land Rights under Indigenous Law in Africa’, in Claassens and Cousins (eds.), *Land, Power and Custom*. (Cape Town, 2008).
36. Platzky, L. and C. Walker, *The Surplus People: Forced Removals in South Africa* (Johannesburg, 1985).
37. Republic of South Africa. *Constitution of the Republic of South Africa Act, No. 108 of 1996*. (Pretoria: 1996).
38. Shackleton, C., S. Shackleton and F. Mathebela, ‘The Contribution and Direct-use Value of Livestock to Livelihoods in the Sand River Catchment, South Africa’, *African Journal of Range and Forage Science*, 22, 2, 2005.
39. Sherry, S., ‘Go Big ... and Small’, *Financial Mail*, 20 January 2012.

40. Statistics SA, *Census of Commercial Agriculture 2007* (Pretoria, 2007).
41. Statistics South Africa, *Census 2011: Agricultural Households. Key Highlights* (Pretoria, 2013).
42. Vink, N. and J. van Rooyen, 'The Economic Performance of Agriculture in South Africa since 1994: Implications for Food Security' (Halfway House, 2009).
43. Visser M. and S. Ferrer. *Farm Workers' Living and Working Conditions in South Africa: key trends, emergent issues and underlying and structural problems.* (Pretoria, 2015).
44. Walker, C. *Landmarked: Land Claims and Land Restitution in South Africa* (Johannesburg and Athens, Ohio, 2008).
45. Walker, C. 'Sketch map to the future: Restitution unbound; in: Cousins and Walker (eds), *Land Divided, Land Restored* (Johannesburg, 2015).
46. Wegerif, M., B. Russell and I. Grundling, *Still Searching for Security: The Reality of Farm Dweller Evictions in South Africa* (Polokwane and Johannesburg, 2005).
47. Wolpe, H. 'Capitalism and Cheap Labour-Power in South Africa: From Segregation to Apartheid', *Economy and Society*, 1, 4, 1972.