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THE SOUTH AFRICAN LAND QUESTION: 2004 AND BEYOND?

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Introduction

The question of land in southern Africa, particularly in those countries that experienced direct settlement by whites during the colonial period is a complex issue that strikes at the very heart of the liberation struggle (particularly in Zimbabwe), and societal and economic transformation. A potent blend of economic and emotive arguments is stirred whenever the state of land reform is discussed and debated in these countries.

The land question extends barbed threads into debates around black consciousness, deeply embedded memories of colonial indignities and dispossession, into the search for historical redress, and into racial reconciliation and nation building. Enmeshed within this are arguments around economic rationale around land use and production, the centrality of tenure for development, and the certainty of property rights for investment. These arguments transcend the local and national and permeate the reality of globalisation in the 21st Century.

The task here today is to consider the South African land question in the context of these debates, to briefly appraise the state of land reform after ten years of democratic rule and the implementation of a land policy, and to hopefully raise discussion about the similarities and differences between South Africa and Zimbabwe in particular. We are need for constructive and new ideas as we grapple with these questions – and certainly for frank and honest engagement that moves beyond the polarised positions that people are taking.

South Africa: the status quo

After almost ten years of policy formation and implementation, land reform has made only limited progress in South Africa. Many of the original objectives have not been met, which include an undertaking in 1994 to redistribute thirty percent of agricultural land within five years and to make land reform the driving force of rural development.

Having delivered less than two percent of land in the first five years of democratic governance, this target was re-conceptualised in 2001 to redistribute 30 percent of South Africa's agricultural land over 15 years. However, by early 2004 land reform has not succeeded in achieving its objectives. Indeed, after ten years of democratic rule there are still critical issues, which remain unattended.

The Debate: an election issue in 2004?

Despite putting on a brave face – claiming progress with restitution claims settled (43,000 out of 63,000); improved legislation, increased rate of redistribution, tenure policy – the DLA received criticism from all quarters in 2003. These criticisms included:

- slow pace of land reform;

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- failing to address the needs of the poor;
- poor support for newly settled farmers.

The populist Landless Peoples Movement (LPM), was one such critic having declared 2003 the “year of the landless” and launched its “Take Back the Land” campaign, vowing to invade unused or unproductive farms, threats that are yet to be carried out to scale. Important dimension to debate as LPM forms part of growing civil society movement, which believes access to land is the key to reducing rural poverty.

Touches important beliefs amongst black South Africans, many of whom might disagree with the robust ideological outbursts of the LPM, even though the evidence points to a greater concern with jobs, housing and the provision of basic services as immediate priorities in people’s everyday lives. A 1999 survey found only 1.3% of South African respondents listing land among the top three problems that government should address – yet a 2001 survey found 68% of black respondents agreeing with the statement that “Land must be returned to blacks in South Africa, no matter what the consequences are for the current owners and for political stability”.

At the opposite end of the scale was the Transvaal Agricultural Union, articulating concerns of the white right – blaming land reform for an increase in farm murders and expressed outrage at legislation allowing the government to expropriate land without a court order.

Organised agriculture adopted a more moderate stance – have had regular meetings with President Mbeki throughout 2003. The mostly white AgriSA (although claim 40,000 small-scale black farmers in kzn) and its black counterpart the National African Farmers Union (NAFU) expressed qualified support for the government’s land reform policies – deracialisation of the commercial agricultural sector (5% of GDP).

Organised agriculture critical about pace and complained that commercial farmers became unproductive while waiting for claims on their land to be settled. Also concerns about mounting frustration among claimants and potential black farmers.

Academia – most stridently represented by the Programme for Land and Agrarian Studies (PLAAS) – argued in a major national overview of the overall policy that land reform was built on shaky ground. Argued that:

- restitution was largely symbolic – did little to reduce poverty and alter skewed ownership of land – as most claimants received paltry cash settlements
- redistribution under a market-based approach entrenched divisions between rural rich and poor – and for redistributing less than 3 percent of agricultural land over to black farmers in ten years
- tenure reform described as ineffectual because of limited resources available for implementation meant farm workers remained vulnerable to arbitrary eviction – and the communal land rights bill seen as highly problematic and unworkable.

Reaction of DLA – largely defensive – but insist that land reform is contributing to poverty alleviation.

Political parties picked up on these issues, particularly the restitution amendment, voicing the concerns of their constituencies – racially polarised parties to many extents. Will be an election issue although the manifestoes already released play it down.

Want to explore in more detail where South Africa is with the various legs of the land reform programme.

Land Restitution

The ANC government is still committed to restitution and have reaffirmed its intention of winding up the programme by the end of 2005; a target many observers doubt can be achieved. But there are serious concerns about the sustainability of those rural settlements where land has been restored to claimants and the handful of case studies that have been researched to date suggest that most land-based restitution projects are struggling with many, large institutional and development problems.

Many of these problems arise out of the difficulties of co-ordinating delivery from diverse government structures to ensure access to services to remote locations. Compounding the sense of urgency, claimants still awaiting finalisation have articulated their restlessness and some organisations, such as the Landless Peoples Movement, have indicated that land invasions may be a way of forcing the pace. Despite the relative success of restitution and the realisation that actual restoration of land is an extremely complex undertaking, these frustrations raise the question whether sufficient human resources are being devoted to it.

Now an imminent change in the law that will allow the Minister to expropriate land under a restitution claim on behalf of claimants - if there is an insurmountable deadlock and where an agreement with landowners cannot be reached. It should be stated up-front, despite frenzied attention by the press, in particular the New York Times and the UK Guardian, that this amendment to the Restitution Act, is in accordance with both the spirit and the letter of the Constitution. This makes provision for a comprehensive programme of land reform, including return of land to those historically dispossessed, and balances the rights of property owners with the need to redress the injustices of the past.

Land Redistribution

A recent report released by PLAAS argued that the government's land redistribution policy under LRAD was no longer biased towards the landless poor but set out to develop a class of black commercial farmers who own capital and have access to Land Bank loans. This claim arose out of perception that the LRAD policy transferred more land to wealthier beneficiaries than to their poorer counterparts.

The DLA strongly disagree with this claim arguing that in actual fact none of the beneficiaries of LRAD fit the definition of large-scale commercial farmers by any South African standard and that the poor have received 73 percent of the 400,000 of land delivered under LRAD.

Despite improvements in redistribution, it is highly questionable whether the rate will meet its target of transferring 30 percent of commercial agricultural land to black owners over 15 years. Meeting the target would require the redistribution of about 1,64 million hectares per year. Although the pace of land delivery has increased in recent years and government has redistributed almost 1,5 million hectares of land to 130 000 beneficiaries since 1995, half of it (135 000 hectares) was in only three provinces: Eastern Cape, Mpumalanga and Free State, which is less than 2 percent of all commercial agricultural land in South Africa, of which there is 16, 74 million hectares of potentially arable land (Business Day, 17 September 2003).

In addition, questions remain about the support for the new farmers in terms of inputs, credit, extension, access to markets, all of which are essential to underpin commercial agriculture.

Land Tenure Reform

Draft 8 of the Communal Land Rights Bill was released in August 2002 after a series of earlier attempts had been criticised for transferring title to tribal authorities and entrenching the arbitrary and sometimes corrupt administration of land by traditional leaders. The ANC accused of selling out one-third of the population to appease chiefs, who are angry after not been granted the powers and functions of local government in the Traditional Leadership and Governance Framework Bill, which was approved in 2003.

The paradigm underlying the Communal Land Rights Bill is a “transfer of title” to land in the former *bantustans*, from the state to its current occupants, belonging to “communities”. In essence it is a titling process, albeit one in which groups as well as individuals can be issued with title deeds and take private ownership of land. It provides for an intricate process of transfer, which includes a rights inquiry investigation, community meetings, and objection procedures.

Despite vigorous government efforts to play down the controversy, parliamentary insiders say the Bill is causing a high-level split in the ANC and may be scrapped (again) or probably altered before being debated in the National Assembly.

A major flaw in the Bill is the underlying paradigm of transferring title to communities as the first step of tenure reform, requiring clear boundaries between groups to be drawn. This may well open up and exacerbate boundary disputes and ethnic differences. It is likely that the Communal Land Rights Bill will be presented before parliament before the next general election in 2004, but the enactment of this legislation is so overdue that it is difficult to predict what will happen.

Farm Workers

Whilst developments around tenure policy in *ex-bantustan* areas have unfolded, the DLA has also focused on protecting those who suffered some of the worst excesses of *apartheid*: farm workers and labour tenants living on commercial farms. The Land Reform (Labour Tenants) Act of 1996 and the Extension of Security of Tenure Act of 1997 (ESTA) was designed to protect workers and other occupiers against arbitrary eviction.

Despite the importance of such legislation, anecdotal evidence suggests that these Acts have damaged labour relations on many farms and, despite their good intentions, have encouraged commercial farmers to substitute machinery for labour, thereby accelerating lawful evictions of redundant farm workers and their dependents (Lyne & Darroch, 2003).

Related to this issue, the SA Human Rights Commission released a report in 2003, which engaged with human rights abuses on farms. The report contained a litany of horrors that farm workers on some farms are subjected to – report criticised rural officials and magistrates for failing to implement national policies and enforce constitutional rights.

A common complaint in Limpopo and Mpumalanga (old Transvaal) was of farmers assaulting workers, who are further dis-empowered by a steady influx of Zimbabwean refugees willing to accept slave wages. In KwaZulu-Natal, another common complaint was that of farmers revoking burial and grazing rights.

A recent trend, especially in the Eastern Cape, is the sale of farmland for conversion into game reserves and national parks, which often result in farm workers being dismissed and evicted.

The report has been crucial to raise national awareness about the plight of farm workers – gave support to rural NGOs fighting these issues – underpins the importance of transparency and exposure about rural human rights abuses.

Farm Murders

Two-year investigation into farm murders released – independent panel of experts. Report identified robbery as the prime motive for the 1,500 farm murders since 1994 – almost two-thirds elderly white people.

Despite counter claims by agricultural unions, the report found only two percent of attacks being racially and politically motivated.

Is This A Policy Failure?

The limited progress that has so far been achieved in the redistribution of land in South Africa has caused some tensions and frustrations within the country. A whole range of commissioned studies and reports have pointed to the fact that South Africa's varied land reform institutions have struggled to respond to tasks set by policy planners. Thus despite the collapse of *apartheid* and the birth of a new democratic dispensation resulting in the dismantling of the legislative scaffolding of "separate development", many of the structural inequalities have remained.

Whilst the limitations are extremely important to identify and understand, some criticisms of the policy underestimate the intractable tensions that often surround land in areas that have a recent history of conflict. Considering the political rivalries and contradictions that DLA has had to negotiate in the short period of its existence and its limited administrative capacity to implement policy it is unrealistic to expect a dramatic "reconstruction" of the rural areas.

In terms of outright allegations of failure when considering land reform in South Africa, perhaps the ten-year period of democracy in South Africa is too short a timeframe in which to measure success or failure of the land reform programme.

It took one hundred years to construct South Africa's land tenure map. It absorbed the energies of the colonial invaders and all the demonic intensity of the *apartheid* state. How long will it take to dismantle it? From a comparative perspective, we must recognise that this is but the first round of land reform in this country. Looking to the experience of other countries we can see that land reform seldom is accomplished in one go. It emerges on the political agenda as a result of widespread landlessness and insecurity among the population as a whole where access to the land and other productive assets is marked by historical legacies of inequality. Land reform will continue to re-emerge over time as an important political issue for as long as large numbers of the poor reside in rural areas in conditions of poverty and extreme inequality.

However, understanding levelled at a group of bureaucrats battling along without much real political and economic support will not speed up the reform process, nor meet the national obligation of the government to effectively ensure reconciliation and national building, and indeed economic development in rural areas.

Considering the Political Economy of Land Reform in South Africa

Researchers at PLAAS have argued that despite the considerable attention given to land issues in the southern African region over the past twenty years, fundamental reform that shifts assets and opportunities in favour of the rural poor have yet to be brought about (Lahiff, 2002; Lahiff 2003).

This research posits that across the region the legacy of settler colonialism is perpetuated through a dualistic agricultural system that is sustained through the forces of deregulated capitalism with the result that small-scale agriculture, the backbone of the livelihoods of millions of poor rural households, remains severely neglected by policy makers, particularly in South Africa.

Debates about land reform across the region have seen a confrontation between those who believe that land reform must be centred on the redistribution of ownership or land rights over productive agricultural land in favour of the rural poor, and those opposed to extensive redistribution who wish the reform to focus on measures to raise agricultural productivity and create a new class of black commercial farmers.

The policy cycle relates to changes in the balance of influence of the landless lobby on the one hand and that of landowners and commercial farmers organisations on the other. The commercial farming sector in South Africa has an obvious interest in maintaining "farming as a business" and believed that land reform should contribute to the sector and not undermine it to the detriment of the country. The government is sympathetic to this argument, one that fits with the vision of a deracialised agricultural sector that contributes to food security and rural employment.

But perhaps this is not the most effective model on which to build rural transformation? Certainly the focus on the cities and the formal economy will continue in an attempt to absorb masses of unemployed – supplemented by a tourism drive which hinges on beautiful places and a recently promised mass public works programme to maintain rural infrastructure – but alternatives and complementary programmes exist for rural production based on land reform.

The concept of multiple livelihood strategies indicates that many households are not dependent on agriculture alone but diversify their activities, many of which include petty trading and reliance on urban remittances. Land-based livelihoods are still of central importance to the rural poor and part-time farming contributes significantly to the rural economy, which emphasises that land reform should not look solely at creating a sector of emerging black farmers.

The strengthening of sustainable livelihoods would shift people away from "dependence" on government handouts to self-reliance. The needs of the rural poor should be met as a complementary process. Land reform holds the potential to reduce vulnerability of the rural poor, to help them develop resilience to external shocks and increase the overall sustainability of their livelihoods.

How one may ask? Innovative, wide-area solutions that address land needs in a holistic manner rather than an ad hoc, case-by-case process of reform that cannot meet the targets set in Pretoria. This can only happen with detailed attention at local level – District Councils or local government areas – with support from a range of parties, including government, farmers and NGOs. This will require detailed planning, the integration of key services and the provision of resources on a scale unseen in SA. Will require support services and infrastructure – development finance, research, training and extension, input supplies, irrigation, marketing and management.

Critical, constructive, creative thinking is required around the benefits and potential of extending land ownership more widely than just across the existing agricultural sector.

A complete rethink about land reform and agricultural development in SA – is necessary. New ideas – build upon reflections from Zimbabwe, new forums for open debate and discussion, considering such initiatives as those from Karoi. Need to break the impasse of debate, to overcome the poverty of new ideas (Kaori Izumi).