



## *The Pace of Land Reform in South Africa*

Presentation to the Portfolio Committee on  
Agriculture and Land Affairs  
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Studies, UWC.**

*Conducting research, teaching and  
policy analysis in land reform and  
related fields in southern Africa since  
1996*

- Key issues for the Portfolio Committee:
  - Pace of land reform in South Africa is unacceptably slow
  - Urgent steps needed to improve both pace and quality of land reform.

***The reasons for the slow pace of land reform are complex, but include the following:***

- inappropriate or poorly-designed policies, most notably the market-based approach;
- inappropriate project designs;
- limited capacity within state agencies, including DLA, the CRLR, provincial DOA's and local government;
- severely limited resources for land purchase and for post-settlement support;
- lack of a holistic strategy for land reform and rural development at local or national levels.

3

***Slow pace of land reform is most obvious in the limited transfer of land to date – approx. 2.9% of former 'white' agricultural land by February 2004***

- Also in less-publicised issues such as ongoing evictions from commercial farms and lack of progress in many land reform projects, including settled restitution cases.
- While land reform has achieved some notable successes, these are overshadowed by the scale of the task that remains.

4

***This presentation focuses on four broad issues that should be prioritised***

1. Method of land acquisition
2. Post-settlement support
3. Needs of farm dwellers
4. Budgetary requirements.

5

***Method of Land Acquisition***

- Land reform programme has relied heavily on the market to provide land – the willing buyer, willing seller approach.
- Existing landowners are in a strong position to determine which land is made available and at what price, particularly in redistribution but also in restitution and tenure reform
- The market-based approach currently being followed is a policy choice on the part of government
- SA Constitution clearly allows for non-market approaches.

6



## ***Market-based approach has major implications for the land reform programme***

- Precludes a systematic, planned approach to meeting land needs in specific areas; land acquisition is thus piecemeal, as individual farms come up for sale
- Militates against long-term and proactive planning by state bodies for the provision of infrastructure and support services to land reform beneficiaries
- Willingness of the state to pay 'market' prices ensures that land reform remains expensive, and can be abused by landowners to obtain exorbitant prices.

7

## ***South Africa has an active land market, which presents opportunities for acquisition of land for reform purposes.***

- This would require a proactive strategy by the state to acquire land in areas of high demand for transfer to beneficiaries, something that has long been discussed but has not formed part of policy to date.
- Alternatively, beneficiaries could be empowered to 'shop around' for the most suitable and affordable land, including bidding at auctions; such flexibility is not found under existing policy which requires agreement from a specific land owner *before* a grant application can be considered.

8

***In order to acquire the most appropriate land, at an affordable price and at the required scale, the state should adopt a systematic and proactive approach to land acquisition***

- This would require the following:
  - Systematic assessment of all land needs per area, to include demands for restitution, redistribution and tenure reform
  - Identification of suitable land, and matching this to identified demand, in close partnership with the landless.
  - Negotiations with landowners to release suitable land, on the scale required and at affordable prices
  - Use of expropriation where negotiations do not yield results.

9

***Land reform cannot be left to the vagaries of the market; it requires intervention from the state, including selective expropriation***

- Reliance on the free market puts poor and landless people at a disadvantage, denies the state the power to plan systematically for the restructuring of apartheid-era ownership patterns and provision of post-settlement support, and grants an unacceptable veto power to the small, privileged class of existing landowners.
- The state should adopt a systematic and proactive approach to land reform based on area-wide planning, close partnership with the landless and robust negotiations with landowners
- Utilising a mix of market and non-market approaches.

10

## *Impact of Land Reform*

- Alongside the pace or scale of land reform, the quality of land reform projects and the benefits they deliver to participants is a major source of concern.
- While there have been some policy changes since the introduction of LRAD, many projects are still failing to deliver significant benefits to their members, and some are facing severe sustainability challenges.
- Key issues are initial project design, and post-settlement support.

11

## *Inappropriate project design and poor planning*

- Many land reform projects, particularly group projects under LRAD and restitution, have been designed by officials and consultants to conform to idealised models of commercial enterprises, which bear little relation to the skills, knowledge and experience of intended beneficiaries.
- This is often compounded by high levels of borrowing for new ventures, which beneficiaries struggle to repay.
- There continues to be an over-emphasis on collective farming, where smaller sub-projects may be more appropriate.
- In the case of joint ventures between beneficiaries and former owners, there is a perception in many cases that little real empowerment or transfer of benefits has taken place.

12



## *Project design and planning 2*

- Requires more flexible approach to project design
- Building on the strengths and skills of beneficiaries
- Allow for a mix of commercial and non-commercial activities
- Without exposure to unacceptably high levels of risk.

13

## *Lack of post-settlement support, and poor coordination between role players*

- Critical factor in success and sustainability of land reform projects is the quality of post-settlement support, which varies greatly between projects.
- Many beneficiaries complain of little or no post-settlement support from DLA, provincial departments of agriculture, municipalities or the private sector.
- Lack of support both for productive activities and for management of communal property associations.
- Where services are available, they are often poorly coordinated, with delays of two years or more being reported between transfer of land and release of post-settlement grants.

14

## ***Post-settlement support and coordination 2***

- Requires a comprehensive post-settlement support plan for every land reform project
- To be coordinated by one agency (DLA, DOA or the municipality) and involving all key role players
- To deliver appropriate forms of support in a timely manner.

15

## ***Post-settlement support and coordination 3***

- An important development in post-settlement support has been the introduction of the Comprehensive Agricultural Support Programme (CASP) and the promised re-introduction of the Agricultural Credit Scheme.
- Full benefits of such programmes can only be realised if the agencies responsible for post-settlement support develop substantial new capacity to serve the needs of resource-poor farmers.
- A key requirement is a more effective monitoring and evaluation of land reform projects to ensure that benefits reach intended beneficiaries, and to allow for interventions where necessary.

16



## ***Needs of Farm Dwellers***

- Estimated 800,000 farmworkers and six million farm dwellers - among the poorest and most vulnerable South Africans.
- Despite the enactment of ESTA and the LTA, evictions of farm dwellers continue. The scale is subject to debate; it is not known how many farm dwellers have been evicted either through the legal route or illegally.
- Many private landowners have resisted tenure reform on farms, and organised agriculture has been highly critical of attempts to strengthen the tenure rights of farm dwellers.
- Despite a ruling by the Land Claims Court that recognised farm dwellers' right to legal representation at the state's expense (Nkuzi Judgment), farm dwellers continue to face eviction proceedings without the support of an attorney.

17

## ***The high rate of evictions from private farms can be attributed to a number of factors***

- weaknesses in the legislation
- ignorance of the law on the part of farm dwellers, and inability to exercise their rights
- lack of monitoring or intervention by relevant government departments
- unlawful activity and coercion by many land owners
- lack of support from police, magistrates and prosecutors for farm dwellers facing eviction.

18

## *Need for On-Farm Settlements*

- Land reform programme has focused on regulating evictions rather than proactively securing farm dwellers' tenure rights.
- Little effort has been made to use ESTA to grant farm dwellers ownership of land or development assistance either on the farms where they live, or elsewhere.
- Just six cases to date in Gauteng, eight each in the Free State, Northern Cape and North West, and twenty-five in the Western Cape; numbers elsewhere are unknown.

19

## *Labour tenants 1*

- Approx. 20,000 labour tenant applications have been lodged, mostly in KZN and Mpumalanga
- Since 2002 deadline, the state has not issued notices to affected landowners as required by the LTA.
- Approximately 200 labour tenant projects have been approved, but it is not clear how many of the 20,000 applications these represent.

20

## *Labour tenants 2*

- Lack of progress in responding to labour tenants' applications has led to conflict and insecurity in many areas, as labour tenants attempt to retain access to land for cultivation and grazing.
- Minister recently issued a directive to the DLA to settle 10,000 labour tenant claims, including 5,000 in KwaZulu-Natal, by March 2005.
- Estimated cost of R2.9 billion – a forty-fold increase on the R24 million available in the current financial year – which DLA does not have in its budget.

21

## *Promised review of the two laws governing farm dwellers' tenure rights has been underway for three years.*

- No proposed changes have been made public
- No public consultation on how to remedy the deficiencies of the existing legislative framework.
- Clear indication that the rights of farm dwellers are not being given the priority they deserve

22



## ***Urgent need for policy development to confront the crisis of land rights and livelihoods among farm dwellers***

- Should include farm dwellers in identifying and debating policy options that can respond to the problems they face.
- Major financial and institutional investments are required in rights education, access to justice and enforcement.
- The DLA budget to support the farm dweller programme must be increased and ring-fenced from the rest of the 'land reform' budget line.
- Need to challenge organised agriculture and private landowners to support land reform by agreeing to transfer portions of their land to farm dwellers, for both residential and productive purposes.
- Needs of farm dwellers should be given greater priority within the Agricultural Black Economic Empowerment (AgriBEE) Charter.

23

## ***Budget for Land Reform***

- Budget for land reform has increased in recent years but still accounts for less than 0.5% of the national budget.
- Further increases are projected in the MTEF but these are unlikely to be sufficient for a substantial expansion of the land reform programme.
- Unlikely that gradual budget increases will be able to keep pace with rising land prices.
- Budget for restitution increased markedly in 2003/04 and again in 2004/05 (to R933 million), while the budget for 'land reform' (including redistribution and tenure reform) has declined in real terms over the past six years, and current stands at R474 million.
- Funds to purchase land for redistribution and to secure farm dwellers rights remain *below* the levels in 1998/99.

24

## *From under-spending to under-funding*

- Despite its relatively small allocation, DLA regularly underspent its budget until 2002/03, when the Department over-committed its funds for the first time.
- Over half a billion rands worth of redistribution and farm dweller projects were put on hold and an informal moratorium on new projects instituted in some provinces.
- Backlog of projects resulted in situations where DLA, applicants and landowners were ready to implement projects but unable to proceed due to lack of funds.
- Now, for the first time since 1994, budgetary constraints have become a real limitation on the land reform programme.

25

## *Budgetary requirements*

- No convincing estimates of the total funding needed to meet the 2015 target of transferring 30% of agricultural land. At current market values, this would require tens of billions of rands for land purchase alone.
- To address the current bottlenecks in the redistribution programme, a capital budget of at least R1 billion is required per annum, as against the R445 million envisaged for 2005/06 in the MTEF.
- To settle the outstanding restitution claims will cost at least R13,5 billion, according to the Chief Land Claims Commissioner, although the average cost of settling claims to date indicates that the figure could be much higher.
- Substantially increased capital and operating budgets will be needed to support the conclusion and then the implementation of restitution settlement agreements, well beyond the official deadline of 2005.

26

## ***Budgetary requirements 2***

- Dedicated budgets should be set aside to support the farm dweller programme, including a major injection of funds to transfer formal land rights to the majority of labour tenants whose applications are still pending, confer substantive land rights on farm dwellers and intervene where evictions or other rights violations have occurred.
- The cost of land reform should be shared more equitably between the state and the private sector – including both individual landowners and agribusiness.
- The AgriBEE Charter should address how current landowners will support the programme by donating land or making land available at below-market price, and promote a negotiated approach to land acquisition in areas where there is a high demand for land.

27

## ***Significant increase in the scale of delivery is now required to meet the needs of the mass of poor rural people for economic development and secure land rights.***

- This will require three main elements:
  - substantial increase in resources for land reform;
  - increased capacity within implementing agencies, including DLA, provincial departments of agriculture and municipalities;
  - policy reforms that are capable of delivering land and the necessary support services at a significantly increased scale.

28



## *Conclusions*

- A more effective land reform programme requires strong political commitment to provide resources, build capacity within public institutions, ensure that government agencies work more collaboratively and more effectively, and confront the vested interests of landowners and the wider agricultural sector.
- The processes leading to the adoption of an AgriBEE Charter provide an opportunity to negotiate the terms of a greatly enhanced land and agricultural reform strategy.
- It is essential that parliamentarians play an active role in these debates and ensure that the needs of the rural poor and landless for secure rights and sustainable development are really prioritised.

29

*Thank you for  
your attention*

30