

# Land reform – the solution to rural poverty?

Following the end of apartheid, South Africa's government set itself ambitious goals with a planned land reform. However, there have since been barely any changes in the country's agricultural structure, and the positive impacts that were hoped for on rural livelihoods have hardly materialised. A critical assessment of 22 years of land reform policies.

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. Women's land rights were severely undermined, especially in areas where land was held and governed within systems informed by custom. Social differences and inequalities based on a complex articulation of race, gender and class identities underpinned the unequal distribution of land and insecure rights to land. Post-apartheid land policies were intended to eliminate these structural inequalities. But in 22 years, land reform has barely altered the agrarian structure of South Africa, and has had only minor impacts on rural livelihoods. Around eight per cent of farmland has been transferred through restitution and redistribution, and 20,000 settled restitution claims have not been implemented. Why have the results of land reform been so poor?

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## ■ Post-apartheid governments and their land reform policies

**Phase I: Focus on poverty reduction.** The first post-apartheid Government's early vision of land reform emphasised 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. A constitutional framework for land reform was agreed for this purpose. It contains a provision for expropriation at compensation levels that are 'just and equitable', a right to restitution of land dispossessed after June 1913 (the month in which Natives' Land Act no. 27 was adopted, limiting, among other provisions, the extent of landed property of the majority black population to seven per cent of the country's overall farmland) and a right to security of tenure. The state must take 'reasonable measures', 'within its available resources', to foster conditions enabling equitable access to land. The Government adopted a 'willing buyer, willing seller' approach to land acquisition for purposes of redistribution, and prices paid since then have generally been around market value.

Progress was slow in the first five years of land reform, and most targets were not met. A host of new land laws were passed, aimed mainly at securing land rights. Communal Property Associations (CPAs) allowed groups to hold restored and redistributed land. Communal tenure, however, was highly politicised as a result of the lobbying power of chiefs, and progress in developing a policy framework was slow and incomplete.

**Phase II: Focus on black commercial farmers.** In 1999, policy priorities shifted from meeting the needs of the poor to servicing a group of aspirant black commercial farmers. 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. 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.

Tenure reform was the orphan programme. Few resources were devoted to implementing the Land Reform (Labour Tenants) Act of 1996 or the Extension of Security of Tenure Act (ESTA) of 1997. Evictions of workers from commercial farms continued. In 2004, the Communal Land Rights Act was passed, 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.

**Phase III: Focus on rural development.** After 2009, rural development, food security and land reform were identified as priorities of the

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*The improvements in the livelihoods of the land reform projects' beneficiaries are quite limited.*

*Photo: Adetola Okunlola*

chase. The first five years of the initial lease is treated as a probation period, and no rental is paid in this period.

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 per cent ownership of the farm, ceding the other 50 per cent to workers, whose shares in the farm will depend upon their length of 'disciplined service'. 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'.

government, and the Department of Rural Development and Land Reform (DRDLR) was created. 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.

In August 2011, a Green Paper on Land Reform was published. The main focus of the merely eleven-page 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 jeopardise thousands of existing claims that have not been settled, as well as another 20,000 that are settled but not yet implemented. 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. It is unlikely that the hundreds of billions of rand required to settle an

estimated 397,000 claims will ever be available.

The State Land Lease and Disposal Policy (SLLDP) of 2013 applies on farms acquired through the proactive land acquisition strategy. 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. 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 whether or not any projects that actually involve these categories have been launched. 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 pur-

## ■ Impacts in brief

No systematic data on impacts are available; 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. It is unclear how many recorded 'beneficiaries' still reside on or use transferred land, or benefit from land reform in any way. Institutions such as Communal Property Associations through which land reform beneficiaries hold land in common remain poorly supported and are often dysfunctional. Tenure reform has largely failed. Farm owners have worked out how to evict unwanted workers within the parameters of ESTA, and have done so in large numbers. 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 each year. There are increasing reports of corruption by traditional leaders in areas with minerals. Chiefs are now seeking to extend the territories under their control through restitution claims lodged under the 2014 amendment.

### ■ What went wrong?

There are several reasons for land reform not having become a success story in South Africa. Policy makers are encumbered by a number of wrong assumptions that shape policy design. For example, the rural poor and smallholder farmers are often seen as homogeneous groupings, but are in fact socially differentiated. As a result, targeting is ineffective. Owing to the assumptions that only formal markets count and that small-scale producers can easily be integrated into them, measures to promote the informal economy, including markets for food, are absent. 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 traders operating from small trucks. 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.

The second reason is a lack of coherence in agricultural and land policies. Land reform has not been conceived of as part of a wider process of agrarian reform aimed at restructuring the class structure of the rural economy. Thus there was little real support for black smallholder farmers, and no land reform farms have been officially sub-divided. 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.

For policy-makers, private ownership with registered title deeds seems to constitute the 'gold standard' for land tenure. However, in 2011, some 60 per cent of South Africans occupied land or housing without their rights being recorded in official systems. 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,



*Most South African farmers supply informal markets, often via sales to 'bakkie' traders, who operate from small trucks.*

*Photo: David Neves*

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'. On land reform farms, beneficiaries often lack clearly specified rights to the land they hold through CPAs and trusts.

Informal land tenure systems ('social tenures') are frequently characterised 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. A key criterion is need, rather than ability to pay. These tenure systems confer de facto tenure security to large numbers of people. But people inside such systems also experience many problems. The 'second-class' legal status of the 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.

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 benefiting more than the poor. 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). Last but not least, the process of land reform is 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. All of these have been problematic, and the DRDLR is known as one of the weakest of government departments. And good data on the rural economy are lacking – just one, inadequate, national survey of small-scale agriculture has been undertaken since 1994, and the census does not collect data on farm size.