

LAND REFORM AT THE CROSSROADS: WHO WILL BENEFIT?

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Is land redistribution in South Africa to now serve the interests of a new class of emergent small to large scale black commercial farmers, at the expense of millions of poor rural households? And is tenure reform in the former “homelands” to consist essentially of transferring ownership of state land to “tribes” under the control of unelected chiefs whose legitimacy is often questioned? These are the fears of many land activists and analysts in civil society, who have been effectively excluded from the behind-closed-doors review of land reform policies which has been carried out within the Department of Land Affairs over the past eight months (in stark contrast to the open debates and consultative processes of the 1994-96 period).

The results of the review have finally seen the light of day, in the new strategic directions for land reform announced by Minister Didiza on 11 February. While some of these fears appear to be strongly founded, the policy statement is a mixed bag, and needs to be carefully evaluated. Constructive criticism should give credit where credit is due, but should also clearly identify serious weaknesses, and be prepared to offer viable alternatives.

The Minister is to be commended for emphasizing that land reform must be fully integrated into government’s rural development programme, requiring joint planning and better co-ordination with other departments. Some of the limitations of the current Settlement and Land Acquisition Grant are clearly identified, building on the insights of previous reviews initiated in Derek Hanekom’s time. These include over-reliance on the market as a mechanism within redistribution. The statement that a supply-led approach will now be piloted is welcomed, as is the continued disaggregation of the diverse needs of different groups of people intended to benefit from land reform. This allows space for the further refinement of land reform programmes and “products”.

Other positive aspects include a commitment to speeding up the restitution process, an emphasis on enhancing the developmental potential of both restitution and the Extension of Security of Tenure Act, and a review of equity share schemes. And the moratorium on new projects is to end at last, so that all those Land Affairs officials who have been twiddling their thumbs for months, at the taxpayers expense, can now get back to work.

Much more problematic is the addition of a grant system aimed at gradually changing the (racial) structure of South African agriculture by creating opportunities for emergent black commercial farmers. There will be three new “redistribution windows”, at different scales, with the grant contributing different proportions of land acquisition costs.

Although few details are provided, and thus it is difficult to evaluate their practical feasibility at this stage, the proposal gives rise to several concerns.

At the outset it must be stated that emergent farmers are legitimate beneficiaries of land reform, and have probably not been well served by the programme to date. Thus it is not the addition of a grant for full-time black farmers, operating at different scales, which in itself is worrying. The key issue, rather, is the balance of resource allocation between this *relatively* well-off, but currently small interest group, and the millions of poor households living either in the former Bantustans or on commercial farms. Optimistic estimates of the number of potential emergent farmers range between 20 000 and 30 000 (and skeptics no doubt put it much lower). Compared to the bulk of the rural poor, this is a tiny fraction of those in need of land for improving their incomes – at best less than 2 percent. Thus any allocation of funds to this group (from the very limited budget for land redistribution) larger than, say, 10 percent of the total, would not seem justified if the primary goal is to address deep poverty and inequality.

The balance in resource allocation envisaged by government is not all clear at present, and urgently needs to be addressed. The Minister's announcement is ambiguous as to priorities – although occasionally it does assert that the core business of the Department of Land Affairs remains “land redistribution to the landless poor”.

The second concern in relation to the redistribution grants is the sharp and entirely false dichotomy drawn in the document between commercial, “market based” agriculture, on the one hand, and farming as a “food safety net” (read: “subsistence farming”), on the other. With a lineage as old as early colonialism, this stereotype of African agriculture attempts to separate the mass of “backward peasants”, farming on household plots in the reserves, from “progressive”, market-oriented farmers who deserve to own land under individual title and to receive real support from the state.

In the Minister's statement only the emergent farmers are seen as having the potential to contribute to local economic development in rural areas, and implicitly, only the increasing ownership of land by them is seen as significant “structural change” in agriculture. This myopic and misguided view of the part-time farming practiced by millions of rural people, as one livelihood strategy amongst many, ignores its very real economic value and potential, as is evident all over Africa, and as shown by recent research to be true for South Africa as well. Thus large scale land redistribution to part-time farmers operating on a very small scale, often in communal tenure systems, *if* accompanied by real improvements in infrastructure and services, would not only directly address the poverty of the majority (many of whom are women). It would also contribute greatly to both the local and the national economy. This is the real challenge for redistributive land reform – and, it must be said, one which has not been effectively addressed thus far.

A key resource for land redistribution is state-owned agricultural land, most of which is at present leased out to commercial farmers, on short term leases. This is indeed unsatisfactory, as the policy statement asserts, but the intention to dispose of this high

potential land only to emergent farmers is deeply reactionary. It will rob the rural poor of a potentially crucial route to an expanded land base beyond the boundaries of the Bantustans, and make a mockery of President Mbeki's recent commitment to "reverse a century-old legacy of white minority rule according to which millions of our people were confined in poverty stricken areas described as native reserves..."

Another central issue in land reform, barely dealt with since 1994, is security of tenure in the "communal areas" of the former Bantustans. One of the first actions of the Minister after taking office was to put on ice the draft Land Rights Bill, the result of four years of intensive research, consultation, test cases and legal drafting. It now appears that a new "draft framework document" is to be prepared, although it is not clear what is seen as inappropriate in previous policy frameworks (eg. as set out in the 1997 White Paper on Land Policy). Elements of this previous framework, including some (such as the rights enquiry approach) which were drastically altered after field testing and much debate, reappear in the new policy statement, prompting fears that there has not been a thorough and considered appraisal of tenure reform policy options.

Most worrying of all is the clear intention of the Minister to address tenure security by an attempt to transfer state land to "tribes"(as well as to communities and individual occupants), and to use the Upgrading Act of 1991 (a National Party land law) to do so. The dangers of transferring ownership of communal land to a legal entity known as a "tribe" were extensively debated within the land reform sector over a five year period, and are well known. They include the fact that chiefs, who may or may not be legitimate leaders for the members of a particular community, and may or may not be abusive or corrupt, will be given enormous amounts of *de facto* power by any such transfer.

Since the only rules which govern a "tribe" are those of custom, as interpreted by (usually male) elders, the state is essentially washing its hands of responsibility for protecting the rights of community members through creating an appropriate system of checks and balances, including mechanisms to appeal against abuse and seek redress. Compare this to the provisions of laws governing companies, trusts or Communal Property Associations. However, since these legal entities are often not seen as appropriate by rural people, they are not in themselves the answer either. Hence the provisions in the draft Land Rights Bill for strong statutory rights just short of full ownership, vested in members not in institutions, and state funded support structures, such as Land Rights Officers.

Land reform undoubtedly has great potential to help address deep rural poverty and the inequities in asset ownership which underpin it. But it is an extremely complex undertaking, and often involves fundamental conflicts of interest. It is very easy to get it wrong. This means that the details of government programmes need to be subject to close scrutiny by society as a whole, and that government is well advised to remain open to the contributions, sometimes critical, of civil society. Is the Minister up to this challenge?