

LAND REFORM IN SOUTH AFRICA: PROBLEMS AND PROSPECTS¹

RUTH HALL and GAVIN WILLIAMS

Land reform is one of the ways in which past racial exclusions and inequalities are being addressed in the 'new South Africa'. The Department of Land Affairs (DLA) is responsible for restoring land to those unjustly deprived of land rights since 1913; redistributing land to those denied equitable access to it under segregation and apartheid; and securing the tenure rights of those excluded in the past from acquiring title to land.²

At the outset, the DLA was a 'new South African' Department, with its own Minister, Derek Hanekom. It recruited key staff from non-governmental organizations (NGOs) active in land-oriented struggles and focused its activities on changing the unequal distribution of land. It took over the responsibilities of the Department of Regional and Land Affairs, itself the heir to the bankrupt Department of Development Aid.³ The National Department of Agriculture (NDA) inherited from the apartheid past ways of thinking, institutional structures, links to 'organised [i.e. white] agriculture'⁴ and, initially, key staff and even, from 1994-1996, its Minister. In 1996, Hanekom replaced Kraai van Niekerk of the National Party, and combined his responsibilities for the Departments of Agriculture and Land Affairs within one Ministry. Thoko Didiza replaced Hanekom as Minister of Agriculture and Land Affairs after the 1999 elections.

Since 1994, the NDA has carried through radical policies of liberalizing external and internal agricultural markets. It has ended the 22 statutory marketing schemes and the statutory control of the markets for sugar and vine products that lay at the heart of the cosy relations between 'organised agriculture' and the old regime.⁵ However, it has failed dismally to reorient itself towards serving a new client group, whose needs differ from those of white commercial farmers: beneficiaries of the land reform programme.

In 1993, the World Bank put forward a model for a radical redistribution of thirty per cent of medium and high quality land from large-scale white commercial farmers to 600,000 small-scale, part-time black farm households.⁶ The World Bank's 'model' was converted into a target in the ANC's *Reconstruction and Development Plan* in 1993.⁷ The target was abandoned, as fiscally and administratively unrealistic, by Derek Hanekom, after he became Minister of Land Affairs. The land redistribution programme enabled approved beneficiaries to claim Settlement/ Land Allocation Grants (SLAGs) of R15,000 per household.

In its first five years, the Department of Land Affairs (DLA) fell far short of the objectives it set itself, let alone the ambitious targets implied in the World Bank's models. The Department failed to spend the modest budget that had been allocated to it, and most of that has gone to pay salaries rather than to purchase land.⁸ An official Review of the Department's work described it as 'a highly centralized and fragmented bureaucracy', riven by 'poor race relations' and a 'high black staff turnover'.⁹

In 2000, under a new minister, Thoko Didiza, the Ministry produced a new redistribution policy: An Integrated Programme of Land Redistribution and Agricultural Development in South Africa. Its language and proposals shifted the emphasis away from the previous focus of DLA policy statements on alleviating the plight of the rural poor to the NDA's new concern to promote agricultural production and commercial farming by establishing a class of black commercial farmers. The change of direction in the DLA's policies was accompanied by an exodus of most of the senior officials in the Department, of all colours, followed

by bitter exchanges between Dr Gilingwe Mayende, the new Director-General of the DLA and critics of the new policies.¹⁰

The Integration of Land Reform and Agricultural Development

The 'Integrated Programme of Land Redistribution and Agricultural Development in South Africa' (IPLRAD) went through a series of drafts, the last of which was released on 6 November 2000.¹¹ The drafts of IPLRAD were inflected in ways that reflect black aspirations to commercial success and, at the same time, the thinking of colonial, and apartheid-era, agricultural departments. IPLRAD insists on the Department's commitment to providing farming opportunities, rather than 'unsustainable handouts' for the rural poor; the programme focuses explicitly on 'emergent farmers', an elastic category which covers those wishing to produce for subsistence and to farm commercially on a small, medium or large-scale.¹²

The initial aims of the new policy were to redistribute 30 per cent of farm land to black people over twenty years, to establish black commercial farmers, and to provide appropriate mechanisms to deliver and support the new policies.¹³ Subsequent drafts brought the time-scale down to fifteen years and specified 30 per cent of 'medium to high quality land'.¹⁴ The focus on commercial farmers was muted to 'assisting black people who want to establish small and medium-sized farms'. The latest draft makes it clear that 'black' means 'Africans, Coloureds, and Indians' and commits the Department to overcome the legacy of past 'gender discrimination' as well as racial discrimination. It also commits the programme to facilitating 'better productive use of land' by people in communal areas and promoting 'environmental sustainability of land and other social resources'.¹⁵

Two main programmes were distinguished in the first draft of IPLRAD.¹⁶ The Food Safety Net Programme was to take over where the Settlement/Land Allocation Grants (SLAGs) left off and to be raised to R20 000 per household. The key innovation in the first draft of IPLRAD was the 'Commercial Farmer Programme' (CFP). This was aimed at those with five, or ten, years experience in agriculture and agricultural diplomas. In subsequent drafts, the two separate programmes were unified through the provision for a sliding scale into a single, overarching programme. Within this framework, explicit provision for these two quite different sets of beneficiaries remains.¹⁷

These proposals, as we shall see, revive the World Bank's original suggestions for a basic grant, supplemented by a matching grant and loan.¹⁸ The mechanism for realising the aims of the programme is the introduction of a sliding scale of state grants, which must be matched by a proportionate 'own contribution' from participants – in the forms of cash, assets and/ or labour. Grants are provided on a sliding scale for a proportion of the total cost of the project; the remainder will come from the recipient's own contribution.¹⁹

The grants will range from R20,000 to R100,000 per applicant. The 'own contribution' ranges from R5,000 at the bottom of the scale, to R400,000 at the top [see Box 1]. 'Own contribution' may include or, apparently, even be entirely bank loans.²⁰ At the top end, the grants will therefore be directed towards the creditworthy, among whom earners of high salaries in urban employment are likely to be prominent. The share of 'own contributions' to be met from the participants' own labour is restricted to a value of R5,000 for one year of full-time labour. In practice, the new policy will create incentives for participants to apply for lower levels of grant, where the entirety of their own contribution can be paid in labour. The DLA itself has acknowledged that the contribution of labour can neither be monitored nor enforced.²¹

Race alone, not means, is now the criterion of eligibility for grants. The only criterion for applicants is that they be black South Africans and intend to use the land for agricultural purposes, and to live on it or nearby. To facilitate

'graduation', recipients may acquire several grants, up to the cumulative ceiling of R100,000. Assets acquired from the programme, or from land restitution or the acquisition of land tenure rights, cannot subsequently be used to provide 'own contributions' for a further claim. There is no provision for rights to land being counted as 'contributions'.²²

If we wish to understand the new policy, we need to identify its origins and analyse the process through which it has come into existence. We can then return to examine in more detail the proposal and its implications.

Defining Policy Agenda

In 1990, once Nelson Mandela was released, the National Party government recognised that it could no longer sustain the segregation of land and its unequal distribution under the land acts of 1913 and 1936.²³ The 1991 Land Acts,²⁴ the associated White Paper, and the 1993 Provision of Certain Land for Resettlement Act sought to find ways to broaden access to land previously reserved for whites, without 'any form of redistribution of agricultural land'.²⁵ They gave priority to individual freehold property over other forms of rights in land while maintaining state regulation over the use and division of land in the name of conservation and commercial development.²⁶ Land acquired by the South African Development [formerly Native] Trust (SADT) under the 1936 Act to augment the areas reserved for Africans could be converted into planned settlement schemes. The Urban Foundation advocated 'state acquisition of land for special agricultural areas for new farmers ... on land near to cities and towns, or irrigation schemes, or near large corporately owned estates.'²⁷

The ANC, in response, outlined a land reform programme, comprising three elements: restitution, redistribution and tenure reform.²⁸ The state would coordinate land redistribution in response to expressed demands for land. The strategy of the ANC was shaped by the experience and concerns of NGOs, many of whom were affiliated to the National Land Committee (NLC), which had been active in resisting removals and supporting communities who wished to reclaim their land.²⁹ The NGOs' priority was to restore or redistribute land to poor rural people. This was resisted, not only by white farming and business interests and agricultural officials, but also by the National African Farmers Union (NAFU), which saw the promotion of small-scale farming as 'another ploy ... to restrict blacks from the more profitable and competitive large scale farming'.³⁰ Chiefs sought to reassert their patriarchal authority over land against the NLC's commitment to egalitarian forms, which would explicitly grant independent land rights to rural women.³¹

Enter the World Bank

In 1992, the World Bank initiated a report on the agricultural sector in South Africa.³² Later that year, an array of 'international experts', brought together by the World Bank at a conference at the Royal Swazi Sun, presented analyses of the lessons of international experience for land reform and agricultural policy in South Africa. Hans Binswanger and Klaus Deininger of the World Bank argued for the greater efficiency of small over large farms and for the removal of the system of protection and subsidies that had sustained inefficient white farmers.³³ However, if small farmers, lacking initial capital of their own, were to pay the full interest charges on the value of land, they would be unable to sustain viable farms and an improved standard of living. Consequently, 'a free land market alone will not be able to transfer land to smaller and poorer farmers, unless these are provided with grant financing in addition to or instead of mortgage financing.'³⁴

Binswanger and Deininger recognized that successful transfers of large-scale, mechanized commercial farms are difficult 'since there are not enough families

with farming skills and implements available on these capital-intensive farms to result in the establishment of efficient small farms able to rely on low-cost family labour.³⁵ They require 'a change in the pattern of production, subdivision of the farm and construction of complementary infrastructure'.³⁶ Political considerations in South Africa necessitated a 'major restructuring of the rural economy centred on significant land transfers and small scale production units.' It was not enough 'to tinker at the margin with land reform and resettlement', as 'in Zimbabwe after independence'.³⁷

The World Bank put forward Kenya, or rather their construction of it, as the positive model for South Africa to follow.³⁸ Their proposals recall the proposals of the 1954 Swynnerton Report³⁹ in Kenya. The Kenyan land reforms of the 1950s and the plan to transfer land at independence from white farmers to a hierarchy of African large-scale, 'yeomen' and peasants farms turned out rather differently from official intentions, and from the interpretations of World Bank economists.⁴⁰ The World Bank's proposal for South Africa, developed by Binswanger and Deininger, argued that

Settlers should be selected based on their prior farming skills and their ability to pay for part of the land cost. They should be allowed to purchase (with credit) relatively small plots of land, to which the successful ones could add via rental or additional purchases. Unsuccessful settlers should be allowed to rent out or sell their land and take on off-farm employment. A settlement agency should only be responsible for very basic infrastructure. Extension and marketing must be organized for the settlement areas. ...

The above argument implies that settlement schemes will not directly benefit the poorest, who lack the skills and capital resources to be successful. Since infrastructure suited to small farm-cultivation would have to be established and the ensuing path of agricultural development would be more labor-intensive, they would, however, be able to derive considerable indirect benefits as tenants or workers.⁴¹

The South Africans to whom these lessons were directed were offended by the patronising attitude of the international experts who lectured them. The exclusion of the poorest people from the direct benefits of land reform was contrary to the mood of the time. ANC supporters and civil society organisations involved in rural people's struggles for land expected that the transition to democracy would establish an ANC-led government, which would prioritise the redistribution of both resources and opportunities to the poorest South Africans. However, the ANC did not have well developed proposals for land reform, nor experience in agricultural policy. Advice and expertise was needed.

In 1993, the Land and Agricultural Policy Centre (LAPC) was set up with donor funds. The LAPC and the World Bank drew South Africans of various persuasions into the process of drafting policy documents for which the Bank and the LAPC set the terms of reference. In 1993, Binswanger and Deininger modified their earlier proposals to allow communities and not only individuals to acquire land, and suggested the introduction of vouchers to buy land, which would be 'targeted to the poor ... to avoid having the scheme benefit the middle class, bureaucrats and tribal chiefs'.⁴²

Options for Land Reform

Hans Binswanger and Robert Christiansen presented the World Bank's 'Options for Land reform and Rural Restructuring in South Africa' to the LAPC 'Options' Conference in September 1993.⁴³ This explicitly declared 'its guiding principle' to be 'political and economic liberalization'.⁴⁴ The World Bank economists explicitly linked agricultural policies to land reforms. There was a clear institutional and ideological separation between the South Africans preparing papers on agricultural policies, and those working on land issues. These differences in perspective would be repeated in the divisions between the DLA and the NDA after 1994.

The World Bank's 'Options' explicitly recognised the central tension 'between the desire to address welfare objectives through the redistribution of land and the need to promote the productive use of agricultural land.'⁴⁵ In setting the terms of reference for the 'Options' Conference, the World Bank made provision for groups willing to 'commit some of their own resources to part- or full-time farming' to 'gain access to land ... using a combination of own resources, loans and a matching grant.'⁴⁶ Since the programme 'was neither intended to nor able to meet the legitimate welfare needs of the entire population', an assessment would have to be made of 'Rural Social "Safety Net Requirements".'⁴⁷ 'Options' therefore suggested 'a basic grant scheme' 'at a level sufficient to pay for a major share of a rural housing site' to meet welfare aims – R5,000 was suggested. For those who would 'use land in a productive manner', an additional grant could be provided, to match the beneficiaries' own contribution, and augmented by a loan.⁴⁸ A rural public works programme would create economic infrastructure and provide rural employment. 'Options' discussed a variety of criteria for selecting beneficiaries. It did not ask whether workers currently resident on farms might have some prior claim to the farm over settlers.⁴⁹

The World Bank's 'Options' paper argued explicitly that the constitution should allow the state to acquire land for redistribution. It suggested that district land committees, separate from elected district councils, should compile land records, document land claims, and administer applications for land redistribution. If insufficient land became available for redistribution, these committees would also be able to recommend expropriation.⁵⁰ As with the ANC's 1992 proposals, the process would be 'demand-led'. Demand would be determined by the market, enhanced by state grants to beneficiaries and reserve powers of expropriation.

'Options' outlined a model in which 30 per cent of white-owned medium to high quality land would be transferred to 600,000 black households within five years. Its cost would be surprisingly small: R3.5 billion per annum, of which less than 10 per cent would be spent on administration.⁵¹ The World Bank's 'model' was converted into a target in the ANC's *Reconstruction and Development Plan* in 1993.⁵² The target was abandoned, as fiscally and administratively unrealistic, by Derek Hanekom, after he became Minister of Land Affairs.

Squaring Circles

The apparent convergence of views, notably at the Options Conference, masked fundamental differences on which objectives should be prioritised and which policy instruments employed.⁵³ These differences were exacerbated by the need to co-ordinate the work of institutions with different outlooks and priorities, and to reconcile the divergent objectives which land reform policies were intended to realise. The divergences centred on the priority to be given to promoting the commercially productive use of land, relative to meeting the needs of the rural poor, including rural women, and to changing the racial composition of land ownership.⁵⁴

The DLA land reform programme followed the lines initially outlined by the ANC: *restitution* of land of which people had been deprived since 1913 because of racially discriminatory laws and practices; *redistribution* of land to 'poor and disadvantaged people'; and land *tenure reform*.⁵⁵ The NGOs now looked to the DLA and the LAPC for contracts to implement and evaluate land reform projects. They were weakened by the loss of staff to the DLA, the LAPC, and into consultancies working for the DLA, but this meant that their agendas tended to permeate these structures.⁵⁶

Land Restitution

The complex architecture of a Land Claims Court, supported by a Commission on the Restitution of Land Rights and provincial Land Claims Commissioners, was

created to adjudicate claims for land restitution, including claims made by second-generation labour tenants under the Land Reform (Labour Tenants) Act of 1996.⁵⁷

Between 1994 and 1998, land was restored to a small number of dispossessed communities. The process and the achievement of reclaiming land exposes divisions: between former owners and their tenants; between those who wish to remain where they are and those who prefer to find better opportunities elsewhere; between rival claims to authority to allocate land.⁵⁸ The majority of claims, urban and rural, were yet to be dealt with. The Department speeded up the settlement of claims, especially in urban areas, by moving from the legal process of restoring land to the administrative process of making offers of financial compensation.⁵⁹ 'Standard Settlement Offers' of R40,000 per urban claim were mooted, but in practice the level of financial compensation has been made in a more flexible way, in both urban and rural settings, taking into account how the claimants were dispossessed from their land, the value of the land at the time, adjusted for land market inflation, and other relevant factors. The potential costs of adjudicating and meeting these claims could easily exhaust future land reform budgets. After the first three years of restitution, less than ten of the 63,455 claims lodged had been settled. By mid-2000 that figure stood at more than 3,916.⁶⁰

The *Review of the Land Reform Pilot Programme* suggests that, whether claims are to be met by restoration, alternative land or compensation, they should be subject to district planning requirements.⁶¹ In practice, this proviso has been subordinated to the urgency to settle claims.

Land Rights

Land tenure reforms were intended to end racially defined forms of rights to land and at the same time to allow for different forms of tenure within which *de facto* rights would be protected. Problems of administering land rights, whether through traditional authorities or by recognizing individual property rights has led government to revert to re-issuing Permissions to Occupy (PTOs) in the former homelands.⁶² New 'Communal Property Associations' and Community Trusts were created to allow beneficiaries of land reforms to 'acquire, hold and manage property in terms of a written constitution.' These may in some cases provide a fictive legal framework behind which political entrepreneurs, civic organisations, or traditional authorities control the allocation of resources rather than an effective mechanism for holding decision-makers accountable to their 'communities'.⁶³

A new Land Rights Bill was drafted. It was framed in terms of the constitutional requirement⁶⁴ that the state enact legislation of general application to protect and secure tenure rights. This aimed 'to vest rights in the people who occupy, use or have access to the land', not in institutions such as traditional authorities or municipalities. The Bill would protect those 'who have established occupation, use or access rights' and be implemented by Land Rights Officers, employed by the DLA and advised by Local Land Rights Boards.⁶⁵ The key issue may be one of how to adjudicate competing claims, especially in areas opened for occupation by land reforms. The Bill has now been abandoned. The state has yet to fulfil its constitutional obligation.

The Extension of Security of Tenure Act of 1997 (ESTA) was designed to protect workers and other occupiers against arbitrary eviction. It aims to enable occupiers to get rights to their own land, either on the farm or off it, through the government housing subsidy programme or through grants under the land reform policy.⁶⁶ The prospect of the Act, like the Land Reform (Labour Tenants) Act of 1996, prompted evictions it was designed to prevent. Nor did it stop farmers from evicting people from their land after the date when the Act came into force.⁶⁷ The

Interim Protection of Informal Land Rights Act of 1996 (IPILRA) was intended to provide immediate protection to occupiers of land pending legislation to define and secure land rights. It is due to lapse on 31 December 2000. ESTA discourages farmers from building, or providing, housing on their farms to employees, just as the Labour Tenants Act will discourage them from allowing workers to keep their own cattle on the farm. It also gives occupancy rights to former or current farm workers resident on land acquired by the SADT or available for acquisition for land reform purposes.

Land Redistribution

The DLA provided that households earning less than R1,500 per month were eligible to apply for a Settlement/ Land Acquisition Grant (SLAG) of R15,000. The grant was pegged to the state housing grant, and applicants were allowed to apply for only one of the two grants. The SLAGs were subsequently raised to R16,500, R1,000 less than the increase in housing grants. In this way, the DLA sought to realise the twin aims of providing rural housing and opportunities to farm with a single grant. SLAG applications were to include a business plan. Settlement Planning Grants could pay for the services of a planner. The cost of land relative to the size of the grants encouraged the hasty constitution of communities, often of over 100 households, to purchase farms. Beneficiaries were generally unable or unwilling to commit their own resources to the project. This has been named the 'rent-a-crowd' syndrome. Little money is left to buy farm implements or build houses and the land is either occupied by only a few of the families listed on the grant application or becomes another crowded settlement similar to those established by the apartheid regime.⁶⁸

In February 1994, the National Land Committee (NLC) convened a Community Land Conference (CLC), which brought together more than 700 representatives of 357 black rural communities. The CLC adopted a Land Charter, which demanded that the state expropriate land and deliver it to dispossessed communities. It called for women to have equal rights in land with men and to be represented equally in community decision-making bodies.⁶⁹

The DLA called a National Conference on Land Policy in 1995 to bring representatives of black rural communities and white farming interests into accord with its thinking, as reflected in the DLA's Draft Land Policy Principles.⁷⁰ As at the CLC, community representatives opposed the exclusion of claims for dispossession before 1913, called for the constitutional clause protecting property rights to be scrapped and pointed out that the SLAG was too low.⁷¹

The RDP allocated the land reform pilot projects (LRPPs), one in each province, R35 million. Whereas agriculture is primarily a provincial responsibility, land reform was a national competency, directed centrally by the DLA through its own officials in the nine provinces and the districts in which the projects were situated. Private planning agencies took on a large share of their implementation because of the lack of planning capacity at district level. Pilots could involve officials from Land Affairs, from provincial (and national) departments of agriculture, land claims commissioners, white farmers, agricultural unions, planning consultants, the NGOs, community-based organizations (CBOs), traditional authorities, and claimants to land. They each have their own interests, jurisdictions, forms of authority and accountability. It has proved difficult to co-ordinate their activities and complete the transfer of land.⁷²

Pilot projects were chosen to include districts 'faced with land-related issues of the greatest complexity and urgency'.⁷³ By mid-1997, pilot projects had been completed and land transfers registered only in Kwazulu-Natal, Eastern Cape and Mpumalanga; Free State had also completed several non-pilot projects.⁷⁴ A pilot project in the Northern Province was confronted by local opposition from the rural poor.⁷⁵ LRPPs adopted diverse strategies to meet the

varied conditions in their districts. The Northern Cape and the Free State gave poor rural people access to municipal commonage to graze stock.⁷⁶ In KwaZulu-Natal, the provincial office of the DLA found itself confronting conflicts between and within communities as to whose claims to land available for redistribution would be recognised and who would exercise authority over the land once it had been transferred.⁷⁷ The Association for Rural Advancement (AFRA), the provincial agricultural union (KWANALU) and the DLA have set up a tripartite arrangement to deal with conflicts regarding security of tenure and labour tenancy rights.⁷⁸

Scott Drimie shows how and why land at Impendle, Natal, which the SADT had acquired before 1994, was not transferred to any of the rival beneficiaries. Chiefs and their followers in neighbouring areas, former labour tenants, people evicted from 'black spots', aspirant commercial farmers, and conservation officials either lived on or laid claim to one or more farms. The moral and legal claims invoked arose from different laws and policy objectives (restitution and redistribution, reform of labour tenancy and protection of security of tenure). Without any resolution to the issue of who had what sort of right to land tenure, no redistribution of land could take place. Drimie argues that the DLA's ability to hold the ring among contending claimants without transferring land may be counted a success in the volatile political context of the Natal Midlands.⁷⁹

In the Western Cape in particular, farmers and agribusiness companies have used grants to fund the acquisition by workers trusts of shares in farm enterprises. These schemes circumvent the problems of the delayed returns to the high costs of land and of establishing vineyards and orchards. They can potentially enable workers to share in the returns from marketing fruit and making wine and not only from growing fruit. They depend on the use of the farmer's or the company's capital, equipment, skills and access to markets and must therefore fit in with the farmers' objectives. They may enable employers to acquire additional land and water resources and to raise productivity by restructuring incentives.⁸⁰ Ownership of shares in the enterprise has not contributed sufficiently to changed power relations between employers and employees. Nor has it necessarily produced tangible financial benefits: in the deciduous fruit industry, falling international prices have deprived workers, like other shareholders, of dividends.⁸¹ SLAGs could also be used to meet housing costs. In this way, SLAGs replace the subsidies that the previous government gave farmers to build farm housing. Since the Extension of Security of Tenure Act of 1997, it suits farmers if workers are housed on their own land rather than, as in the past, tied to farm housing.

Most 'equity-share' schemes were initiated by farmers or by firms, who retain direction of financial management. Some looked to funds from land reform grants to find ways out of their financial difficulties.⁸² As there are no independent smallholders, as there would be in contract farming schemes, these schemes 'do not look like 'land reforms' but the 'vision of independent small-scale production' may be 'inappropriate in high-value horticulture'.⁸³

Outgrower schemes, alongside established estates, might offer a way of integrating small-scale producers into international markets. This strategy has been successful in other industries, such as Kenyan tea production or small-scale cane growing in Natal,⁸⁴ where smallholder producers sell the high-value products to a monopsony processor and can earn a better return from their labour than local alternatives. They do not, however, overcome the problem of high establishment costs for orchards and vineyards or enable producers to share in the generally more profitable returns from processing and marketing.⁸⁵

The Contradictions of Land Reform

There is an obvious tension between the aims of providing resources to the rural poor and encouraging commercial production, whether by the emerging farmers favoured by the NDA or by the smallholders envisaged in the World Bank's model. The first priority for most people wanting land is to acquire residential sites and gardens (from which they may produce for sale) before grazing for stock and arable land.⁸⁶ Poor, and not so poor, people who acquire land will use it for several purposes and combine it with other sources of income and security. These multi-faceted and adaptive strategies fitted ill with the business plans required for grants.⁸⁷

The SLAG grant offered most potential beneficiaries little scope for expanding agricultural production on their own and encouraged purchases by communities who have lacked the resources or capacity to farm the land they have acquired effectively. Land reform thus appears to be a form of welfare provision and thus seen as a cost to be minimized rather than an investment in future production. Not surprisingly government allocated few funds to it — and the DLA found it difficult to spend them on acquiring and transferring land.⁸⁸ Most of its budget was spent on salaries rather than on grants for purchasing land.

The DLA gave explicit priority 'to the marginalized and the needs of women in particular'. In practice, the demand-led nature of land reform has meant that benefits are more likely to be claimed by those with 'literacy, money, transport, political contacts and the ability to submit and continue pressing their claims'.⁸⁹ Local 'dynamics of social differentiation, resources access and political contestation'⁹⁰ are more likely to decide who gets what, when and how than the rules set out by the DLA. Beneficiaries of land, as in the former bantustans, were drawn disproportionately from those groups able to pay for land, farming activities and finance from salaries or commercial activities.⁹¹

The structures for allocating land formed an extended hierarchy of patron-client relations from the DLA and provincial officials via NGOs to CBOs to rural people seeking grants to acquire land. An alternative route goes through farmers and facilitators to farm workers to enable them to pay for housing, buy land, and acquire equity in the farm business. Claims for restitution and redistribution of land validate the authority of those who speak and act on behalf of their communities — largely men. They act as brokers between rural people and outside institutions and can charge fees to outsiders seeking land. Communal property arrangements may meet the formal requirements for transferring land but are out of line with the informal, hierarchical and gendered networks through which common property will be managed or allocated.

Demand for land is most intense along the borders of the former bantustans, where farmers increasingly find it difficult to protect their fences, their stock, and their own and their families' lives, and to resist the encroachment of people and cattle on their land.⁹² Over the seven years up to November 2000, more than 930 white farmers have been murdered.⁹³ Many farmers look to the government to buy them out as the previous regime did when it consolidated the territories of the bantustans. Because these areas are in high demand from land reform applicants, the price of land acquired for redistribution is inflated.⁹⁴ As in several other respects, a policy designed to reverse the patterns of the past continues to extend features of previous practices.

The three pillars of land restitution, land rights and land redistribution are not separate from one another in practice. Nor are they necessarily compatible with one another, or with other legislation to secure rights for rural people, as Drimie's study of Impendle⁹⁵ clearly illustrates.

Going Back to the Beginning

The evident shortcomings of the DLA's plans to reform land redistribution and the appointment of a new Minister of Agriculture and Land Affairs in 1999 made the Review of the Land Reform Programme, produced in draft for the DLA and external donors on 27 September 1999, particularly timely. It built on the work, and went beyond the recommendations, of the 1997 Mid-term Review and provided a basis for bringing current arrangements and policies into question and opening the way for new initiatives.

Reviewing Reforms

The first two chapters of the 1999 Review identified key flaws in the land reform programme. A longer third chapter focused on the structure and procedures of the DLA itself. This chapter identifies racial tensions common to other government departments and institutions and lack of information on the DLAs expenditure, activities and outcomes. Its financial management system 'was designed for use in centralized government departments'⁹⁶ and was unsuitable for facilitating activities carried out at provincial and district levels. The implementation of policies depends on the institutions that carry them out. Requiring the DLA to bring its practices into line with managerial discourses may not be sufficient to ensure its effectiveness in carrying out its policies.

The 1999 Review identifies the key problems of the land restitution policy in its 'largely-legal and rights-driven process'.⁹⁷ Similarly, the redistribution process suffers from:

its application basis, which required applicants to apply for particular pieces of land, often without reference to need, available infrastructure or provincial or municipal planning. Second is the 'grant-based approach' and the size of the grant. This is insufficient to generate a livelihood ... It has also encouraged large groups to apply for land to make up the price. This is the fundamental problem from which most other problems (after-care, reproduction of poverty, etc. stem.⁹⁸

The Review further questions the capacity of Community Trusts and Communal Property Associations 'to hold and manage land'.⁹⁹ Which undermines the three pillars of the land reform policy fairly conclusively.

The difficulties of getting support from other organs of government, at national, provincial and district level, led the provincial offices of the DLA to accumulate functions, despite its attempts to form co-operative relations with the provincial departments of agriculture and district councils.¹⁰⁰

The Review therefore advocates a reversal of policy from a demand-led to a supply-side approach. The state could 'purchase or release land which could be made available in the form of defined projects for the beneficiaries who qualify for them'. This would be implemented as part of a coherent, inter-departmental Rural Development Policy, within which the DLA would concentrate on its core activities rather than to try to solve all the related problems themselves. The large, centralized bureaucracy in Pretoria should be reduced in favour of a district planning approach, in which 'in theory at least' local development activity is co-ordinated through 'developmental local government'.¹⁰¹ Theory may be a poor guide to the capacity of rural district councils to plan and implement complex land reform projects.

Government should decide how much it is willing to spend to meet restitution claims and insulate other land reform programmes from spending on restitution. Claims for restitution, and whether they are to be met by restoration, alternative land or compensation, should be subject to district planning requirements.¹⁰² The Review emphasises the urgent need to establish an effective and flexible policy to define and recognise individual and group rights to land.¹⁰³

The Review recommends, without extensive discussion, that the DLA should clearly differentiate between different 'products' for different beneficiaries. These are, firstly, the promotion of medium and large scale black commercial farmers, as advocated in provincial and national departments of agriculture. This is 'critical for the growth and sustainability of the commercial agricultural sector'. Secondly, small-scale farming enterprises, combining commercial production with other sources of livelihood, as in the outgrower schemes for sugar and timber. Thirdly, the acquisition of land for commercial or semi-commercial purposes other than agriculture, specifically ecotourism, mining and small, medium and micro enterprise. Fourthly, to accommodate the needs for settlement of the very poor, who are at the centre of DLA discourse but have gained little from its practice.¹⁰⁴

Land Reform in Historical and Comparative Perspectives

The 1913 Natives Land Act reserved seven per cent of South Africa's land for 'native reserves' and prohibited Africans from buying land elsewhere. The issue of the augmentation of the reserves was unresolved until the 1936 Native Trust and Land Act made provision for the acquisition of additional land by the Native Trust (later the South African Development Trust - SADT). This would raise the area of the reserves to 13.6 per cent, a process that had not been completed by 1991. Purchases of white-owned land for transfer to Africans facilitated the consolidation of the bantustans. The SADT continued to transfer land to homeland governments, even after the 1991 Land Acts.

African communities with title to their land were evicted from areas designated for white ownership. Far larger numbers of farm workers and farm tenants were forcibly removed, mainly to 'closer settlements' in the bantustans.¹⁰⁵ Labour tenancy survived its legal abolition in parts of KwaZulu-Natal because it allowed African producers a place to live and to keep stock, albeit on steadily worsening terms.¹⁰⁶ African farmers in the reserves were directed to separate residential, arable, grazing and woodland in accordance with the requirements of 'betterment' schemes, which — as in colonial east and central Africa — reduced their capacity to grow crops or keep stock and provoked rural resistance.¹⁰⁷ The Tomlinson Commission was set up to report on the socio-economic development of the 'Bantu areas'. It proposed to grant freehold title in the South African reserves to a class of full-time farmers on 'economic farm units' (*vollebestaans-boerderyeenhede*), with a target income of £60 per annum.¹⁰⁸ This would displace half the rural population. Government rejected this plan to make half the population of the reserves landless. Betterment continued - as part of a policy of settling even more people into the reserves.

Some of the land acquired under the 1936 Act was made available to displaced communities. Some farms were acquired by politically-connected traders and civil servants in the bantustans. Resident farm workers lost their livelihoods without the benefit of the compensation paid to landowners. The SADT leased much of the land it acquired to white farmers for grazing. After 1987, the Development Bank of South Africa (DBSA) directed agricultural development in the bantustans away from large-scale farms and settlement to Farmer Support Programmes (FSPs).

The DBSA distinguished between three categories of farmers: 'commercial farmers', 'emergent farmers' and '(sub-) subsistence' farmers, echoing the tripartite categories of colonial planners in Kenya. It focused on the supply of inputs, including machinery, extension, credit and marketing services. Most FSPs were successors to failed settlement projects. Their clients were former farm workers, labour tenants, and residents of reserves, who brought with them different experiences, skills, resources and objectives. Farmers participated in FSPs to get access to credit and inputs, and often found themselves without the money to repay their debts. Project recommendations and technologies were often inappropriate. Two projects were successful in that they enabled farmers,

mainly women in one instance, to increase maize production for their own consumption. In several cases, FSP farmers were more likely than others to use inputs and to achieve higher yields and incomes but these were the groups for whom the programme had been designed in the first place. In two cases, farmers who did not participate in the FSP were more successful than those who did. Hardly any commercial farmers 'emerged' from the process.¹⁰⁹

After 1994, the Department of Agriculture initiated the Broadening Access to Agriculture Thrust (BATAT) to extend services to 'previously disadvantaged farmers'.¹¹⁰ This built on the assumptions of the FSP, to which they added a Graduation Farmer Support Scheme, replicating colonial strategy in Southern Rhodesia (Zimbabwe). The Department failed to get the programme off the ground and abandoned it in 1998.¹¹¹ Ironically, its approach and objectives are central to the focus of the new strategy of providing support for 'emergent' farmers.

In KwaZulu, outgrower schemes allowed men and women to enter into cane production on land held in small parcels in customary tenure under the direction of milling companies. Credit and extension services facilitated expansion of cane growing, but the recovery of credit from the sale price created tensions between growers and millers, and extension services were often neither timely nor appropriate. Income from cane supplemented remittances from migrants and pensions and was spent predominantly on education, housing and consumer durables. In KaNgwane, dispossession of people to make way for state plantations made it possible for cane farmers to be established on 'economically-viable units', each employing on average three labourers, at the expense of excluding their neighbours from access to land. Tomlinson's recommendations had at last come into their own.¹¹² Outgrower schemes made a significant impact on production and incomes in cane growing areas and allowed millers to increase their cane supply. Agricultural development programmes proved to be most successful when they involved a commitment from agro-industry and fitted in with the industry's needs.

The Ironies of the New

The DLA's new strategy initially envisaged a hierarchy of black farmers who were characterised as 'subsistence', 'semi-commercial', 'pre-commercial' and 'commercial'. 'Broadly aimed interventions' should 'assist large numbers of people' at the subsistence level. 'More focused interventions would 'seek to move particularly promising and desiring candidates from one level to the next' (i.e. meaning from subsistence to commercial production).' 'Commercial farmers tend to be — but are not necessarily — larger, and are more likely to consider farming to be their *full-time* occupation. Subsistence farmers ... tend to be small, and treat agriculture as a subsidiary activity to support the household.'¹¹³ The chain of progress is thus one of increasing scale, commercialization of inputs and outputs, and commitment to full-time farming.

According to the initial drafts, Food Safety-Net Projects 'aim to provide households with individual resource bases, especially where arable land is concerned.'¹¹⁴ Farms would usually be acquired by a group, or 'tribe' or by state purchases of blocks of land for communities and subdivided among or allocated to its members under individual, sectional, group, or 'tribal' title. The later drafts simply refer, under this heading, to beneficiaries acquiring land for food-crop and/or livestock production to improve household food security', either on an individual or a group basis. The DLA would allow groups to acquire land and subdivide it but, after the experience of rent-a-crowd projects, would discourage groups production.¹¹⁵ Initially grants for Equity Schemes, in which employees can become co-owners of the farms on which they work, were also to be limited to

R20,000 but, under the new proposal to integrate all grants within a sliding scale, these limits disappeared.¹¹⁶

At a workshop of 25 February, 2000, the Minister stressed that municipal commonage should be 'available for emergent farmers, with a clear plan for exiting and allowing the emergent farmer to access the new commercial grants envisaged for black commercial farmers.'¹¹⁷ A draft document proposed that 'The Commonage Product' be bifurcated to allow municipal commonage to be leased on a communal basis for subsistence purposes and individually to emergent farmers.¹¹⁸ The latest draft leaves municipal and tribal commonage projects — one low cost and effective manner in which the previous land reform programme was able to contribute to poverty alleviation — outside IPLRAD. Similar, projects oriented towards housing and settlement and supporting a range of productive and income-generating activities rather than agricultural production alone would be separate from IPLRAD.¹¹⁹

Transferring Land

The first priority of the DLA would be to dispose of state land 'to unlock the economic potential of rural communities whilst simultaneously addressing current inequalities in access to commercial agriculture by black farmers.'¹²⁰ However, it would still have to be paid for. Much of the state land that might be available is in the hands of the Departments of Defence and Public Works who have not thus far been keen to release land for redistribution. The state would advertise land for disposal to enable beneficiaries to bid for the land and secure grants to finance their purchases.¹²¹ The transfer of state land to black commercial farmers may, as in the past, dispossess workers or tenants currently occupying that land.¹²² This would conflict with rights created by the Extension of Security of Tenure Act and the Interim Protection of Informal Land Rights Acts.¹²³

The disposal of state land was originally envisaged as part of a proactive strategy, encompassing public and private land. The DLA would contract with a firm to create a database of available land. Planning grants of up to 15 per cent of total project costs may be paid to 'design agents' on approval of the project.¹²⁴ Farmers and developers might subdivide large plots for sale under the programme. Approval would be devolved to the provincial land officials. Local officials would identify land, confirm the seller's title, provide technical advice on the proposed farm plan and use of land and its impact on the environment. Professional valuers would confirm that the price was comparable to recent sales in the area and estate agents would handle the transfer. Department of Agriculture officials would be trained to advise beneficiaries before and after the land is transferred. Some would move to the private sector to do so.¹²⁵ The outsourcing of these administrative tasks is designed to hasten decisions and save money. It may not prove profitable within the limited budgets available.

Although the new policy makes reference to a wide range of beneficiaries, these procedures define the profile of its preferred applicants:

They select the chosen amount of the grant, engage a design agent if required, identify available land, enter into a contingent contract with the seller, apply for a normal bank loan through standard banking procedures, if necessary, engage a transfer agent, prepare a farm plan, submit all documentation to the local agricultural officer for an opinion, assemble the completed proposal package, and submit it to the provincial grants committee.¹²⁶

The programme provided for the acquisition and redistribution land. It did not, despite its name, make provision for agricultural development or specify how it could be oriented to the needs of small-scale producers and beneficiaries of land reform. State and private sector extension services,¹²⁷ are presumably expected to provide for black commercial farmers as they have always provided for whites.

Traditional leaders vehemently opposed any measures that would undermine their authority to allocate land. The new minister, Thoko Didiza, withdrew the Land Rights Bill in 1999 for further revision. She originally intended to transfer State land held in trust (i.e. land held under communal tenure and, presumably, land acquired by the former South African Development Trust) to ownership by 'tribes', later glossed as 'traditional authorities' or 'African traditional communities'.¹²⁸ These provisions are absent from the latest draft.¹²⁹ IPLRAD's initial drafts provided, rather implausibly, for people to buy sectional title to land they already held under communal tenure.¹³⁰

The Minister planned to replace permissions to occupy (PTOs) by introducing new regulations for the administration of land in the former Bantustans and SADC areas, after consultation with traditional leaders.¹³¹ The latest draft refers to existing laws designed to protect tenure security and to the opportunities which the IPLRAD offers to those who have regained tenure rights or lack secure tenure rights. It makes no mention of any replacement for the Land Rights Bill or the Interim Protection of Informal Land Rights Act.¹³²

The latest draft does secure gender equality in one way, by allowing 'adult individuals' 'to apply for grants in their own right, rather than as members of households'.¹³³ This will facilitate grants for women's only projects. It may also enable households to maximise benefits by aggregating the grants to individuals and expand the claims made on the budget for redistribution.¹³⁴ Further, at least 'one third of the transferred land must accrue to women'.¹³⁵ How this is to be achieved and what this means in practice, and across generations, is not clear.

Policies, Plans and Outcomes

The conceptions underlying the new strategies recall the Kenyan land reform, on which the World Bank modelled its proposals for South Africa. This distinguished between 'commercial', 'yeomen' and 'peasant' farmers, all above 'subsistence' level. The proposal is unrealistic in assuming that there is a definite relation between scale, commercialization and full-time farming. For example, producers with access to small areas of irrigated land and markets for their produce may well grow vegetables intensively and buy their staple food. The most successful commercial farmers often draw on past or present earnings from salaries of business activities. It wrongly assumes that there is a smooth progression up the scale rather than a multiplicity of optimal combinations of skills, money and material resources appropriate to different crops under different conditions, for people with different endowments of assets and capabilities and with no direct path connecting one with another. One reason for the failure of policies to promote 'yeomen' farmers in Kenya was that they operated on a scale too large to manage family labour based smallholdings and too small to enjoy the economies of scale of large owner-managed capitalist farms.¹³⁶

The Ministry appears to have finalised its plan after seven drafts through the course of the year 2000, eighteen months of a moratorium on new land redistribution projects, and in the face of outcries in the press about the abandonment of the poor. The Minister held an Indaba on 6-7 November 2000.¹³⁷ She was pleased that the plan had been debated so widely; the task at hand was to implement it. Land reform would address the needs both of the landless and of potential entrepreneurs, who would contribute to economic growth. The Indaba and, by implication, the policy was concerned with the latter. The policy is no longer either 'integrated' or a 'programme'. It has been renamed 'Land Redistribution for Agricultural Development: a sub-programme of the Land Redistribution Programme'.

The strategy will provide for large, medium and small commercial farmers and for subsistence producers. Land for settlement, commonage and non-agricultural production activities will be dealt with under different policies though,

without more specific provision, they may find the necessary finance wanting. Budgets are unlikely to be committed to their implementation. The new policy, like the old, will start with the launching of a pilot programme in each province.

Invited participants from black and white commercial agriculture, financial institutions, agribusiness, NGOs and trade unions, and uninvited rural communities, were divided about policies and priorities. NAFU looked to the state to make state and private land available to African farmers, and called for expropriation of private land, to the alarm of Agriculture SA. The National Land Committee wanted government to acquire and allocate land in a supply-led approach, but did not regard expropriation as its first option. They all complained about the Department's lack of genuine consultation on the new policies they were being asked to implement.

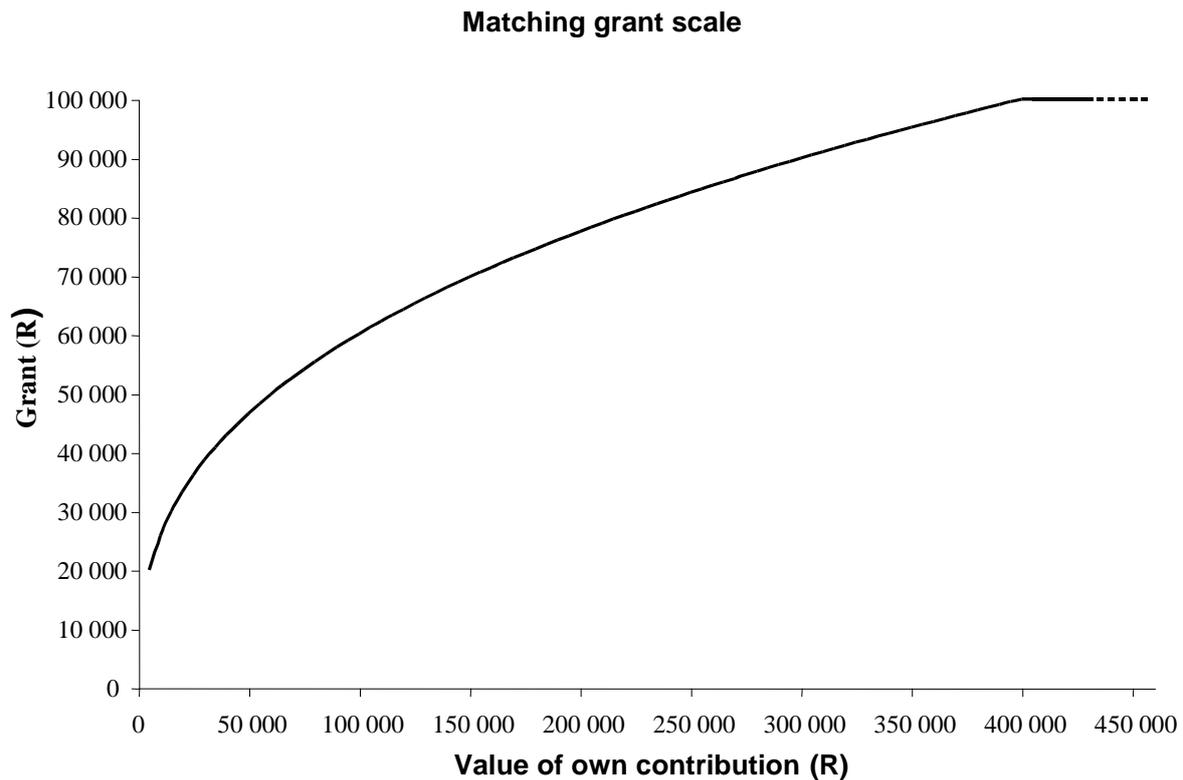
The Ministry may well be fatally underestimating the political imperative and economic viability of providing land for subsistence and non-agricultural purposes. Land invasions continue and violent attacks on white farmers are becoming more and more frequent. Community lobbies are mobilising for non-market based land reforms in several provinces. These developments may indicate a realisation that state policy does not offer a route to acquiring land for the majority of rural South Africans.

The Department has made changes to each subsequent draft of the policy. These have been largely cosmetic, addressing the barrage of criticism while retaining intact the priority to commit resources to altering the racial profile of the commercial agricultural sector, which is itself in crisis. The aims and mechanisms of the policy have stayed the same. As in 1994, the new policy combines a change in discourse with institutional continuities, and a return to strategies that have been tried, tested, and often failed elsewhere or in the past.

No definite conclusions can be drawn from experiences elsewhere; all other things are not equal. The failures of land reform thus far in South Africa give reason for adopting a different approach to those tried by the old regime or put forward by colonial planners in Kenya. These examples suggest that it may prove difficult and expensive to foster and sustain a successful class of 'semi-commercial' and commercial black farmers, let alone enable the former to turn themselves into the latter.¹³⁸ The new policy blueprints may fail to realise their goals, as previous plans did in colonial and post-colonial Kenya and in the old and the new South Africa. Even if they were to succeed, in their own terms, the policies may not quell the demand for land and the social conflict associated with it.

Box 1: Sliding scale of grants and own contribution

The minimum grant amount is R20 000 which can be accessed with an own contribution of R5 000. The maximum grant is R100 000, which will require an own contribution of at least R400 000. If the participant contributes more than this amount(s) he/she still can only access a grant of R100 000. Between the minimum and maximum amount, a continuum of grant amounts is available, depending on the participants' own contribution (as highlighted in the graph).



Taking a range of own contributions as illustration, we have the following:

| Own contribution R | Matching grant R | Proportion of total cost % | |
|-----------------------|---------------------|-------------------------------|-------|
| | | Own contribution | Grant |
| 5 000 | 20 000 | 20 | 80 |
| 35 000 | 40 871 | 46 | 54 |
| 145 000 | 68 888 | 68 | 32 |
| 400 000 | 100 000 | 80 | 20 |

Source: Ministry of Agriculture and Land Affairs, *Integrated Programme for Land Redistribution and Agricultural Development*, 23 October, 2000, p. 4.

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- 12 *Media Briefing Document for Department of Land Affairs Media Conference – Durban*, 22 June, 2000. The language differs but the strategy is the same in *IPLRAD*, 8 June, 2000, p. 5; 23 October, 2000, p. 2.
- 13 *IPLRAD*, 8 May, 2000, p. 6. The Minister's initial statement aimed at 'redistributing at least 15% of farmland in five years to emergent black farmers.' (Didiza, February, 2000, p. 2)
- 14 *IPLRAD*, 23 October, 2000, p. 1.
- 15 *IPLRAD*, 23 October, 2000, p. 2.
- 16 *IPLRAD*, 8 May, 2000, pp. 6-9. The dual focus on productive farming and rural safety nets revives the initial framework of the World Bank's 1993 policy options. See below.
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- 18 World Bank, *Options*, pp. 2, 35.
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