

PROGRESS WITH DIFFERENT LAND REFORM OPTIONS IN SOUTH AFRICA

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The land reform programme of the South African government has three focus areas, namely restitution of land rights to the victims of forced removals, redistribution of land to the disadvantaged and tenure reform aimed at promoting security of tenure for all. In realising a programme of rapid and effective land reform it is important that all possible options of land transfer to previously disintitiled South Africans should be pursued. This paper briefly describes the different options for land reform in South Africa and discusses the progress made in implementing the land reform programme of the government and each of the options outside the programme. Based on current trends in the land redistribution programme and private land and a number of other assumptions it is estimated that around 0.39% of commercial farm land in South Africa could be transferred through a combination of models to less advantaged groups by the end of 1996.

1. INTRODUCTION

The process of enabling disintitiled or black South Africans to become farmers in their own right must be viewed as important for sustainable economic development in South Africa. This will require some well-designed efforts to enable this group to enter the agricultural market and compete on par with other players. In this process, land reform will be a key element. The land reform programme of the South African government has three focus areas, namely restitution of land rights to the victims of forced removals, redistribution of land to the disadvantaged and tenure reform aimed at promoting security of tenure for all. For land redistribution as much as possible will be relied upon the existing land market. This is the approach advocated by a number of authors (see for example Van Zyl, *et al.*, 1996) and which is also followed in the design of the Land Reform Programme of the Department of Land Affairs. The need for reliance on market mechanisms stems partly from the observed robust activity of the current market for farm land, and the weaknesses of non-market oriented programmes that typically vest too much control in public sector bureaucracies. Due to the legacy and the poverty of the landless, non-market interventions such as financial grants and legal provisions are necessary to complement market transactions, to ensure successful implementation of any land reform programme.

In realising a programme of rapid and effective land reform it is, however, important that all possible options of land transfer to previously disintitiled South Africans should be pursued. This paper briefly describes the different options for land reform in South Africa and discusses the progress made in implementing the land reform programme of the government and each of the options outside the programme.

2. OPTIONS FOR LAND REFORM

A range of options is available to assist the process of bringing about a rapid, effective and sustainable land reform in South Africa (*cf.* Van Rooyen, Vink & Malatsi, 1993) and are briefly discussed below:

2.1 Restoration of Land Rights

An important area of action refers to the history of forced removals in South Africa, which is inextricably linked to the way in which the agricultural sector has developed. Some 1.3 million people were dispossessed of their rights to land in the white farming areas up to 1982. The need for appropriate administration and legal processes to address

such claims are of vital importance in lending credibility to any land reform programme. Apart from the specific restoration of land issues, it can be argued that a general restitution for the "victims" of apartheid should include mechanisms to gain access to land.

2.2 Market-assisted land redistribution

The Redistribution Programme of the government enables eligible individuals and groups to access a Settlement /Land Acquisition Grant to a maximum of R15 000 per household for the purchase of land directly from willing sellers, including the state. This subsidy is intended to benefit the poor, and those in urgent need of land - people who would have little chance of becoming land owners in a market economy without the assistance of the state. In addition to this grant the Department of Land Affairs also offer a range of other grants and services. These include a settlement planning grant, district planning, facilitation services, training and capacity building services and dispute resolution services.

2.3 Land reform through farmer settlement schemes

Farmer settlement strategies imply (at least a degree of) transfer of rights to land, assets and decision making to settlers. On these schemes farmers are established and are normally supported by a service unit responsible for creating access to and the management and delivery of support services (input supply, credit and marketing, processing training, extension and counseling). Settlement actions can also be directed towards landless people, and communities with land claims.

2.4 Land reform induced through the provision of Farmer Support Services

A support service provision programme is different from a settlement programme as it is primarily directed at those already farming. The programme is therefore not a land provision programme *per se* but rather a supply strategy attempting to alleviate constraints under which (resource poor) farmers are operating. It can be structured as a (comprehensive) package of institutional arrangements aimed at creating access to services such as extension, training, research, financial support and marketing. It is argued that improved incentives, as a result of the improved services, could lead to increase renting of farm land and some farmers purchasing land to acquire secured title to land.

2.5 Land reform through private land acquisition

The direct transfer of land (and other assets) through the market is a cost effective processes of transfer. Direct land purchases are possible since the scrapping of the Land Acts. Opportunities should now be created for the establishment of farmers through a system that will promote and facilitate normal land transfers through the market. A crucial element in such a process is access to finance. Many potential buyers still find it impossible to purchase land due to lack of finance and due to the restrictive requirements of formal financial institutions. Where the state is in possession of land, transfer to individuals to farm must be viewed as an important strategy.

2.6 Broadening the farm asset ownership base

Land reform can be extended to accommodate a range of asset transfer schemes to landless groups in commercial farming areas. Farm workers, for example, can be included in profit sharing arrangements, equity acquisition schemes, etc. Such arrangements will broaden the ownership base on commercial farms and will provide for opportunities to extend access to farming opportunities to farm workers while maintaining productivity. This will address a major problem experienced by farm workers; i.e. that of wealth accumulation and security. While this approach will not promote new small scale farmers, it could save substantially on infrastructure while retaining existing technical and managerial expertise.

3. PROGRESS WITH LAND REFORM

In this section we review the progress with some of the options discussed above. The three core programmes of the Department of Land Affairs are discussed first after which we report on the progress with other options for land reform such as private land acquisition, broadening of the asset base and farmer support service approaches.

3.1 Land reform policies of the Department of Land Affairs

The government's land reform programme has begun, in a modest but significant way despite the enormity of the task. Progress with the different elements of the land reform programme is highlighted below based upon information provided by the Department of Land Affairs.

3.1.1 Restitution

One key objective of the land reform programme is the restitution of land rights to people from whom those rights were taken since 1913 as a result of racist laws. The government's policy and procedure for land claims are based on the provisions of the Constitution and the Restitution of Land Rights Act, No. 22 of 1994. Soon after the passing of the Restitution of Land Rights Act a five-member Commission for the Restitution of Land Rights was appointed. The three year period during which people may lodge claims according to the provisions of the Act started on 1 May 1995. A restitution claim qualifies for investigation by the Commission on Restitution of Land Rights provided that the claimant was dispossessed of a right in land after 19 June 1913 under, or for the object of, a racially discriminatory law or was not paid just and equitable compensation, if expropriated under the Expropriation Act (Department of Land Affairs, 1996). So far 7 095 claims have been lodged with the Commission. The breakdown of these claims is as follows:

3.1.2 Redistribution

A Land Reform Pilot Programme was established to test various land redistribution models. The aim of the programme is to establish mechanisms for state-assisted entry into the land market for the most disadvantaged sectors of rural society. Administrative and financial structures and procedures for the pilot projects in the 36 districts chosen, have been established at national and provincial levels and are fully functional. A district office has been established in each selected Pilot District.

A large number of land redistribution requests have been received and dealt with outside the Land Reform Pilot districts. Groups of beneficiaries, the so-called common property associations, were formed in almost all the provinces. These groups pool the settlement grant of R15 000 per household in order to purchase land as a legal entity. These requests are dealt with through a process involving three stages, i.e. approval; designation and finally actual transfer of land. A total of 220 requests for land acquisition and planning grants have so far been received or have been approved by the Screening and Priorities Committee (SPC) of the Department of Land Affairs. Up to the end of 1995 an

Table 1: Land claims lodged up to June 1996

Province	Rural	Urban	Total
Western Cape	54	1869	1923
Northern Cape	107	28	135
Free State	59	0	59
Eastern Cape	173	205	378
KwaZulu - Natal	739	1751	2490
Mpumalanga	277	11	288
Northern Province	356	41	397
Gauteng	225	995	1220
North West	167	38	205
Total	2157	4938	7095

Source: Hanekom, 1996.

estimated total of 53 649 ha has been designated for transfer. Some of these cases were transferred in early 1996. A total of R73,5 million has been committed for planning and settlement grants up to the end of 1995 with the largest share (R32 million) earmarked for KwaZulu-Natal.

During the 1995/1996 financial year, 8 164 ha of land was transferred to 1 021 households. All these transfers took place in the last quarter of the financial year, and account for nearly 75 per cent of the Department's capital budget allocation for redistribution for 1995/1996. Based on the latest statistics (September 1996) it is estimated that 33 300 hectares of farm land have so far been transferred since the inception of the redistribution programme in 1994. This has cost the government in the range of R28 million in land reform grants. Virtually all of these beneficiary households were members of common property associations. It is estimated that 25 groups were involved in the transfer of the land referred to above.

The rate of delivery in the land reform process has been slow during 1995. This is largely due to the long start-up time required for the implementation of projects. This involves assisting communities in defining their needs, the identification of land, assessment of the settlement potential of the land, the negotiation of a land price and the establishment of a legal entity to take ownership of the land for the beneficiaries. Not enough staff were available in the Department to undertake this work, but concerted steps have been taken to fill newly established posts in the Department's provincial offices. The process will certainly accelerate during 1996 as the Department continues to improve systems and procedures for delivery (Hanekom, 1996; Department of Land Affairs, 1996). A further indication of that the process has the potential to accelerate is the fact that around 1 749 741 hectares (2.1% of total farm land) are earmarked or are in the pipeline for redistribution or tenure reform and restitution.

3.1.3 Tenure reform

The South African Constitution states that "a person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure, or to comparable redress".

Providing people with legally protected security of tenure, and recognising various forms of tenure which exist, remains one of the biggest challenges. In 1995 the Department of Land Affairs initiated a legislative reform programme aimed at the protection of existing informal rights and allowing for alternative forms of tenure to be implemented. The Land Reform (Labour Tenants) Act and the Communal Property Associations Bill were both approved by Parliament in 1996. The Upgrading of Land Tenure Rights Amendment Bill and the Interim Protection of Informal Land Rights Bill were debated in Parliament during the last weeks of June 1996 (Hanekom, 1996).

Various requests for the upgrading of Permission to Occupy (PTO) certificates in terms of Act 112 of 1991 are under investigation or have been finalised. The power to upgrade land rights in urban areas was delegated to the provinces on 24 November 1995.

Requests for the upgrading of rights on tribal land will still be dealt with by the Department until the necessary policy and legal frameworks to protect the land interests of communities in tribal areas have been established. During 1995, progress was also made regarding the transfer of tenure rights to beneficiaries in 12 restitution, restoration and resettlement cases. These cases will be finalised during 1996 (Department of Land Affairs, 1996).

In addition to these three core programmes of the Department of Land Affairs, considerable work has been done to address the slow pace at which land has historically been released for development. A land development and planning framework has been put in place that will expedite the release of land for priority uses - including the housing programme and land reform. The passage of the Development Facilitation Act in 1995 is a milestone in this regard. The establishment of its structures, the appointment of the Development Tribunal members and personnel, as well as a concerted campaign to inform stakeholders at provincial and local government level about the workings and implications of the Act is well under way. The Act will begin to be fully implemented in August 1996 in a number of provinces (Hanekom, 1996).

At a provincial level initiatives have been launched to enable land use for farming purposes in the urban environment. One particular problem in this regard is that urban land is often reserved for urban industry and town planning purposes. An innovative approach is to release land earmarked for future residential and industrial use, on a "temporary" basis (5 - 10 years) for farming purposes (Department of Conservation and Agriculture - Gauteng Province, 1995).

3.2 Private land acquisition

While some black farmers are collectively or individually making use of the government grants to purchase land, a considerable number of private land transactions have already taken place without farmers making use of these measures. Recent studies¹ (Kirsten, 1996 and Lyne, 1996a) of deed transfers to previously disadvantaged persons through private transactions in the Northern Province and KwaZulu-Natal, revealed interesting statistics indicating the extent of private land acquisition by black farmers.

White commercial farmers (individuals and through farming companies and trusts) were, as expected, the major buyers of farm land. Only 15 black buyers (2% of the total number of buyers) were active in the land market in two selected districts in the Northern Province during 1994 and 1995. This is a very small percentage and together they bought 1.5% of the farm land that came on the market during the two years. Although this is a negligible share of total farm land in the two districts (only around 0.19%), this is indeed a beginning.

The sizes of the farms purchased by these individuals varied from as small as 8 ha to as large as 1 732 hectares. Taken together 3 715 hectares were purchased by black farmers in the two districts during 1994 and 1995.

Considering the sample of land transactions in the two districts it is estimated that 0.14% of commercial farm

Table 2: An analysis of farm land purchases by blacks in the Potgietersrus and Soutpansberg magisterial districts

	Potgietersrus		Soutpansberg		Total	
	1994	1995	1994	1995	1994	1995
Number of transactions	3	2	4	6	7	8
% of total sales transactions	1.32%	1.30%	2.29%	4.17%	1.74%	2.68%
Area of farm land	2444 ha	730.8 ha	300.8 ha	240 ha	2744.8 ha	970.8 ha
% of farm land traded	3.32%	1.25%	0.55%	0.41%	2.13%	0.83%
% of total area of farm land	0.2%	0.06%	0.04%	0.03%	0.14%	0.05%

land in the Northern Province were sold to blacks during 1994 and 0.05% during 1995. This constituted an annual transfer of commercial farm land to black buyers of 7 964 ha in 1994 and 2 844 ha in 1995. Based on the average of these two years we estimate that on average 0.095% of commercial farm land is transferred to black farmers in the Northern Province annually.

In KwaZulu-Natal a similar pattern of land purchases was found. Lyne (1996a) estimates that 0.09% of the total area of commercial farmland in the ex-Natal region transferred to black farmers during 1995. This area of 4 879 ha represents 1.6% of the total land area transferred during 1995.

It is noteworthy that the two studies produced similar results although it was conducted in two separate provinces. It can therefore with some confidence be estimated that this trend of private land acquisitions can be expected in the rest of the country. An estimate of annual transfer of land through private market transactions of around 0.1% of commercial farm land for 1996 would therefore not be an outrageous guesstimate.

3.3 Broadening of the asset base

Historical circumstances and impediments on contractual relationships between farm workers and owners, out growers and processors, etc. restricted developments of synergistic business relationships. New policy initiatives and incentives are currently enabling experimentation with a range of models to broaden the asset base. One way to assist the land reform process is by broadening the ownership base on commercial farms through a range of asset transfer schemes to farm workers, including for example profit sharing arrangements and equity acquisition schemes. Farm worker equity schemes include examples whereby workers buy into an existing going concern or form partnerships to start new ventures. This may include the purchase of new lands or the introduction of new enterprises on existing farms. Equity is embodied in the form of a marketable share which allows workers to realise their capital should they wish to exit the scheme (McKenzie, undated; Nel, Van Rooyen and Ngqangweni, 1995).

Table 3: Equity sharing schemes implemented and planned

Scheme	Province	Enterprises	Workers involved	Hectares	Share capital	Share capital per beneficiary
Ebukhosini	Mpumalanga	Flowers	40	25	R318 248	R7 956
Whitehall	Western Cape	Fruit (Apples, Pears, etc.)	160	180	R15.96 million	R99 750
North Citrus	Northern Province	Citrus, Mango and Litchi	337	794	R10.29 million	R30 534
Saw mill	Mpumalanga	Timber	70	N/A	R762 321	R10 890
Grape Farm	Northern Cape	Table grapes	110	90	R5.20 million	R47 272

Sources: Compiled from McKenzie, 1995 and Van Rooyen and Ngqangweni, 1996

A government/private sector task team of the Department of Land Affairs is currently developing procedures to facilitate projects to broaden the asset base. One policy proposal is to increase the flexibility of the current land access grant (R15 000) to disintitiled persons. This will allow beneficiaries to invest in existing farm enterprises as shareholders, participate in joint ventures and invest in agri-businesses. Due to the high transaction costs of these approaches, a "help desk" is also proposed to facilitate preparation and appraisal processes and to ensure a fair and "even handed" deal between land owner and farm workers. For the interim DBSA is acting as public sector conduit.

Currently 50 farm worker equity proposals are in the pipeline and 8 are in the preparation phase. Two schemes are in early implementation. A summary of equity sharing arrangements between existing commercial farms and their employees at early implementation and planning stages is provided in Table 3. From the current evidence some preliminary conclusions can be drawn: Equity sharing projects should be embarked upon as a (final) part of a process whereby farm workers were upgraded in to the management systems on a farm; trust between owner and workers remains a vital ingredient for a successful partnership; high value farming allows a substantial and measurable return within an acceptable time period to participants; the continued support and commitment from the existing land owner/manager/farmer is necessary to allow the maintenance of farm income streams; clear entrance and exit rules are required; and business considerations should be the main value system driving deals (Van Rooyen and Ngqangweni, 1996).

A general conclusion to this strategy is that it widens the scope for redistribution within an agrarian reform context. This option however is only likely to be effective amongst the (30%) of top farmer groups, where good business practices and enlightened labour management processes are already in progress (Ngqangweni, 1996).

3.4 Contract farming and outgrower schemes

In South Africa the concept of an outgrower scheme has been pioneered by the sugar industry when sugar companies

contracted large scale commercial farmers and small holders on communal land to supply sugar mills. Part of the contractual arrangements included access to a full range of support services. In general these schemes have been successful from an income and employment generation viewpoint. Currently large estates owned by milling companies are used for the settlement of small-scale sugar producers. These initiatives were partly initiated by land reform considerations but also because of the efficient performance by small holders in adjacent tribal areas which supplied sugar mills. These contracting systems carry significant implications for empowerment and provision of basic needs to previously disadvantaged black communities. Farm size, however, is in general larger than in the traditional areas and aimed to secure a livable net farm income.

To date 19 000 small cane growers on 2 to 4 hectare plots each has benefited from contract schemes in KwaZulu-Natal since inception in 1972 (Fairall, 1988). Contract farming and similar arrangements have thus far not received any form of "land reform" support from the government, and have not been formally included as part of the national land reform programme. Although contract farming could be applied in other industries such as fruit, timber, tea and vegetables, none has thus far been introduced outside the sugar industry. Plans are, however, in progress in the subtropical and deciduous fruit sectors. Vegetable and flower production in urban-environments are also under consideration, especially as a part of the RDP presidential lead project initiatives.

3.5 Farmer support services

The farmer support programme (FSP) concept was introduced as a coherent development strategy in 1986 through the financial support of the Development Bank of Southern Africa (DBSA) (Singini and Van Rooyen, 1995). This programme essentially entailed the provision of access to the "normal" farming support services required by small holder producers, i.e. finance, inputs, marketing, infrastructure, and also policy and *de facto* land use.

Many of the target groups operated on communal land on small land holdings. The FSP did, however, not require "settlement" activities *per se* and access to land rights was primarily of a *de facto* nature. The underlying assumptions of the FSP were that such small-scale producers would act rationally and optimize the use of available services on demand; and that such activities would induce changes towards the more efficient utilization of resources. It was also expected that increased farm production would be economic rational, would support household level food security and generate employment and labour linkages (Van Rooyen, Vink & Christodoulou, 1987).

In general, indications are that the FSP influenced small holders in a number of locations, mainly KwaZulu-Natal and the former Lebowa, KaNgwane and Venda positively and were far more cost effective and sustainable than large scale development and settlement projects which were the previous main strategy for agricultural development in South Africa (Van Rooyen & Botha, 1994). Current FSP initiatives are increasingly characterised by the private sector providing commercial services in to FSPs. However, it is observed that the coherency of public vis-à-vis privately provided services are presently somewhat jeopardized in the absence of a comprehensive farmer support policy in South Africa.

An interesting "land reform" experiment currently in progress is the introduction of land rental "rules" in communal land tenure situations served by FSPs. The theory behind this experiment, funded by the Development Bank of Southern Africa, was that the introduction of farmer support services in to communal land tenure farming areas, would induce a "rental" farm land market. This would allow land to be used by productive farmers for farming purposes, while non farmer land holders could benefit by land leasing arrangements. It emerged that technological innovation had to be complemented by a) the introduction of "rules" related to secure land transactions; as well as b) arrangement to strengthen leadership and management so that those, who ignore the rules, could be disciplined by the community structure (Lynne, 1996b). At this stage it is difficult to estimate the number of communities and the land area that have seen these improved incentives and increased investment in farm land.

From this evidence it must be concluded that the introduction of farmer support services should be complemented by processes to reduce transaction costs and introduce proper "rules" related to issues such as secure and tradable land use rights. Agricultural development and land reform policies should clearly not be divorced.

4. CONCLUSION

This paper reported on the progress with land redistribution and land reform within and outside the land reform programme of the South African government. It is expected that the official land redistribution programme would by the end of 1996 transferred around 41 000 ha to disadvantaged groups since inception in 1994. It is however, expected that this trend could increase as the Department of Land Affairs continue to improve systems and procedures for delivery. Based on the evidence observed in two provinces, we expect the trend of private land purchases by black farmers to continue at a rate of 0.1% of farm land per annum across South Africa at least for another year or two. Considering these assumptions we estimate that around 0.35% of commercial farm land in South Africa could be transferred through a combination of models to less advantaged groups by the end of 1996 (see details in Table 4). These are very conservative estimates and could well be an underestimate given that restitution cases implemented by the Department of Land Affairs have not been included and that transfers under the redistribution programme in the Free State have not yet been recorded.

With total land area of 1 749 741 hectares currently earmarked (designated) for land redistribution, tenure reform and restitution, and including estimates for other options of land reform, we can optimistically estimate that around 2.8% of commercial farm land in South Africa could be transferred to less advantaged groups by mid-1998.

This paper has shown that the government supported land reform programme is potentially strengthened if supported by other efforts such as equity sharing schemes, private land acquisition and improved service provisions. It therefore once more emphasises the importance of pursuing all possible options to secure rapid and sustainable land reform.

Table 4: Progress with land reform : Estimates of land redistribution up to end 1996.

Land reform model	1994		1995		1996		Total	
	ha	% *	ha	% *	ha	%*	ha	%*
Land Redistribution programme	4 653	0.005%	2 434	0.002%	33 913 #	0.04%	41 000	0.05%
Private acquisition**	82 541	0.1%	82 541	0.1%	82 541	0.1%	247 623	0.3%
Equity sharing	-	-	210	-	800	-	1 010	0.001%
Total	87 194	0.105%	85 185	0.102%	117 254	0.14%	289 633	0.35%

Including 26 218 ha transferred during 1996 up to September 1996. Land designated for transfer which could be transferred towards the end of the year plus transfers not yet recorded especially from the Free State Province make up the balance of the estimate for 1996.

* Share of total commercial farm land in South Africa.

** Estimates based on sample of deed transfers in two provinces for 1994 and 1995.

NOTES:

1. These studies were part of a research programme funded by the Development Bank of Southern Africa and a range of other institutions.

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