

Land Redistribution in South Africa

Commissioned report for High Level Panel on the assessment of key legislation and the acceleration of fundamental change, an initiative of the Parliament of South Africa

Thembele Kepe (University of Toronto/ Rhodes University) and
Ruth Hall (Institute for Poverty, Land and Agrarian Studies, University of the Western Cape)

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Table of contents

Executive Summary.....	4
1. Introduction.....	6
Objectives of land redistribution.....	6
Origins of policy	7
Land Reform: Provision of Land and Assistance Act, 126 of 1993	8
Constitution: Section 25(5) of Bill of Rights on ‘equitable access’	10
Constitution: Section 25(2-3) of Bill of Rights on expropriation and ‘just and equitable’ compensation.....	11
Framework for assessing performance.....	13
2. Policy changes over time.....	15
Willing buyer, willing seller	16
White Paper on South African Land Policy (1997).....	16
Municipal commonage (1997).....	18
Land Redistribution for Agricultural Development (2001)	19
National Land Summit (2005).....	22
Proactive Land Acquisition Strategy (2006 and 2011).....	24
Area Based Planning (2006).....	25
State Land Lease and Disposal Policy (2013).....	26
Proposed new policies.....	27
Proposed new legislation.....	27
Conclusions	28
3. Review of the scale, pace and spatial spread of land redistribution.....	30
Scale of land redistribution	30
Pace of land redistribution	31
Spatial spread	33
Gender distribution of land.....	36
4. Beneficiary selection.....	38
5. Constraints to scaling up land redistribution.....	41
Budget constraints	41
Subdivision.....	46
Design constraints.....	49
6. Evidence on the impacts of redistribution on livelihoods of beneficiaries.....	51

7.	Strategic partnerships and joint ventures.....	57
8.	Recapitalisation and Development Programme.....	63
9.	Implications of state leasehold as a tenure model	68
	<i>Conclusion</i>	72
10.	Post-transfer support and its coordination	73
11.	Budget review	76
12.	Gaps in knowledge.....	81
12.1	Is land redistribution reducing poverty and inequality?.....	81
	How equitable or inequitable is the distribution of budget?.....	81
12.2	How equitable or inequitable is the redistribution of land?	82
	How many long-term leases are in place on state-acquired farms?	83
	Other	83
13	Conclusion	84

List of tables and figures

Acronyms

Executive Summary

1. Land redistribution is a constitutionally mandated function of government.
2. Thus far, constitutional powers of expropriation have not been used in pursuit of land redistribution; instead a policy choice has been made to follow a 'willing buyer, willing seller' approach based on voluntary sales.
3. Land redistribution has proceeded at a slow and uneven pace over the past 22 years, with fluctuations both in budgets and the scale of land being acquired and redistributed.
4. Budgets for land reform have generally been around 1% of the national budget, and have fallen from a peak of 1.09% in 2007/08 to 0.78% in the current financial year.
5. There are substantial differences in land redistribution across provinces: in how much land has been acquired, how much budget spent, and the number of people benefitting.
6. Policy changes since the 1990s have changed the design and delivery of land redistribution in several significant ways:
 - The removal of a means test to target only poor households;
 - The shift away from a primary focus on settlement towards agricultural production;
 - The shift to an exclusively rural focus;
 - The introduction of state land purchase and leasehold in place of land subsidies for beneficiaries to purchase land and own it themselves;
 - The introduction of joint ventures with commercial strategic partners.
7. The removal of the means test combined with an end to land purchase subsidies (grants) means that there is no longer any system to ration public resources.
8. Since the advent of PLAS, one of the very few ways that the beneficiaries can receive production support from the state is through the Recapitalization and Development Programme (RECAP). However, in order to qualify for RECAP support, beneficiaries have to have a business plan, and either a mentor or a strategic partner.

9. A combination of factors, including limited staff capacity, weak staff management, and expanding mandates for which the DRDLR is not currently equipped, hamper the provision of settlement and production support to beneficiaries.
10. No national monitoring and evaluation system is available to determine the extent to which farms acquired by the state for redistribution have (a) been allocated to beneficiaries, (b) been confirmed through the allocation of long-term leases or (c) are being beneficially used to improve the livelihoods of the recipients.
11. It is not possible from data in the public domain to determine the extent to which land redistribution is (a) targeting poor households or (b) contributing to poverty reduction.
12. The latest redistribution strategy (PLAS), which does not allow for transfer of land ownership to beneficiaries, and in the absence of long-term leases, leaves beneficiaries' land tenure rights insecure. Without clear and secure land tenure rights land redistribution beneficiaries struggle to get production support from state departments.
13. Questions need to be raised about the quality of the relationship between beneficiaries and mentors/strategic partners, particularly control over land, capital and production. In particular, what voice do the beneficiaries have in these situations, and if the relationship is unequal, what processes are in place to deal with that?
14. Budget allocations for land redistribution have declined sharply since 2008/09 in both nominal and real terms. This means less money for land redistribution.
15. Available money to buy land has declined even faster than the budget decline, as several other policies and programmes of the Department are now being funded out of the land reform budget. Land acquisition now constitutes a small share of the land reform capital budget.
16. Land redistribution is clearly moving in contradictory directions. On the one hand, government is entering into costly ventures to acquire high-value land and conclude deals with strategic partners to run commercial farms and associated processing facilities, in the names of farm workers whose beneficiary trusts are invisible to public scrutiny – and further paid out substantial funds in Recap funding under the control of the same strategic partners. On the other hand, government is proceeding to pay out modest amounts to give households one hectare each, or shareholding in commercial farms, in two policies that have not been formally endorsed but are being implemented with public funds. None of these models have been adequately assessed. Government has not made public the relevant information with which to assess these.

1. Introduction

Objectives of land redistribution¹

Following centuries of colonial rule and decades of apartheid rule, democratic South Africa set out to redistribute rights in land as a way to remedy past racial injustice and lay the basis for more equitable development.

‘Land is the most basic need for rural dwellers. Apartheid policies pushed millions of black South Africans into overcrowded and impoverished reserves, homelands and townships. In addition, capital intensive agricultural policies led to the large-scale eviction of farm dwellers from their land and homes... Only a tiny minority of black people can afford land on the free market.’²

In pursuit of social justice, land reform would seek to undo more than racial discrimination: it would be pro-poor and would promote gender equality and, by changing production and investment patterns, start to transform dualism in agriculture by blurring the lines between the commercial and communal areas of the country. In 1994, the election manifesto of the African National Congress declared that:

‘A national land reform programme is the central and driving force of a programme of rural development... This programme must be demand-driven and must aim to supply residential and productive land to the poorest section of the rural population and aspirant farmers. As part of a comprehensive rural development policy, it must raise rural incomes and productivity, and must encourage the use of land for agricultural, other productive or residential purposes.’³

Redistribution was a provision to foster improved livelihoods and quality of life for previously disadvantaged individuals and communities through their acquiring commercial farm land. The particular mechanism for acquisition was to be ‘market-assisted’, by virtue of negotiating with existing owners, ‘subsidised’ by provision of state grants to beneficiaries, ‘demand-led’ in that applicants rather than the state would initiate projects, and ‘community-based’ in that groups would pool their efforts and resources to obtain farms collectively. In the 1990s the targeted groups were defined as the landless, labour tenants and farm workers, ‘women and the rural poor’, as well as ‘emerging farmers’, all of whom were subject to a means test to show their need and thereby qualify as eligible. Although this formula corresponded to what had elsewhere – such as in Zimbabwe in the 1980s – been termed a ‘willing-buyer-willing-seller’ approach it differed from others in that beneficiaries, rather than the state, were to be the ‘willing buyers’ and became the owners of the redistributed land. The owners were under no compulsion to sell. Transfers did not until the late 2000s involve the prior acquisition of land by the state for subsequent

resettlement. Instead the state role was limited to screening applicants, approving and supplying grants to them, subsidising the land transfer and planning land use. These functions were mainly discharged through the Department of Land Affairs (DLA), which was not equipped to provide post-settlement support such as extension advice and credit. In the 1990s this programme was designated the Settlement and Land Acquisition Grant (SLAG). Its operations were suspended between 1999 and 2001, pending a policy review, and was phased out from 2001 in favour of the Land Reform for Agricultural Development (LRAD) programme which put more emphasis on the commercial use of transferred land and provided a sliding-scale of different size of grants. From 2006, experiments started with a Proactive Land Acquisition Strategy involving the state purchasing land itself, possibly for onward transfer to beneficiaries. In 2011, under a redefined Department of Rural Development and Land Reform, the land purchase grants (SLAG, LRAD and others) were discontinued and state land purchase became the only form of land redistribution.

Origins of policy

As the transition from apartheid approached, there was a need to work out concrete initiatives – the aims, modalities and methods of work - to give substance to the principles and aspirations contained in the Charter and in various ANC policy documents. Three main sets of perspectives on possible approaches can be identified with particular lobbies, each with some associated publications. One sprang from the wide range of on-the-ground struggles of the 1970s and 1980s. These had been campaigns against forced removals, land confiscations and evictions of workers and other dwellers from white-owned farms. Activists engaged in such campaigns were among the few supporters of the new order that had experience of land issues, and many were recruited to new roles and institutions as they were set up in government to promote land reform. This perspective gave emphasis to the rights of the dispossessed and urged restitution of those rights.

Second, there had also been some limited brain-storming among exile wings of the liberation movement, but this was restricted to a small handful of interested individuals who thrashed out policy options at a 1989 conference at Wageningen in the Netherlands and in an ANC reading group on land and agriculture that met in Lusaka up until 1990. This constituency did take on board socio-economic arguments for land reform, but did not develop policy outlines, and seemed to have picked up little from potentially relevant lessons, positive or negative, from parts of Africa where the movement had a presence, such as Kenya, Algeria, Tanzania and Zimbabwe. The ANC itself (and other liberation movements) were divided between a vision of smallholder peasant production, on the one hand, and a view that supported large-scale and mechanised farms until their eventual conversion to collective or state farms on the other, with the latter being preponderant.

A third direction was from specialist international actors, notably the World Bank, which underwrote a major review by a joint ANC World Bank mission as early as 1993. The thrust of the World Bank input, then and since, has been to push its finding from international experience that “smaller farms have consistently higher profits and employ far more labor

per hectare than large farms”.⁴ Starting from this view of the economic benefits of land redistribution, rather than the question of rights, they sought to promote land redistribution but through a ‘market-based’ approach, where the state role was restricted to assisting the sales of land by existing white farmers, without compulsion, to prospective users.

A Land Reform Pilot Programme was initiated in late 1994 and was formally launched on 28 February 1995, with just one pilot district in each of the nine new provinces. This small number of ‘Presidential lead projects’ formed as part of the Reconstruction and Development Programme (RDP), going ahead while the wider parameters of policy were being debated. Draft Land Policy Principles were debated at a National Land Policy Conference in 1995, a Green Paper on Land Policy published for comment and consultation during 1996, and a White Paper on Land Policy finalized in 1997.

Land Reform: Provision of Land and Assistance Act, 126 of 1993

The legislation governing land redistribution is the Provision of Certain Land for Settlement Act 126 of 1993, which provides for the designation of land for settlement purposes and financial assistance to people acquiring land for settlement support. While it an apartheid-era law, passed by the National Party government during its own limited and pre-emptive attempts at land reform, it remains the legislation that empowers the Minister to appropriate funds for disbursement as land purchase grants or subsidies, and for direct state expenditure on land acquisition, settlement services and production support. It has since been renamed twice: first, as the Provision of Land and Assistance Act, by an amendment, Act 26 of 1998; second, as the Land Reform: Provision of Land and Assistance Act, by an amendment, Act 58 of 2008. While it is therefore an apartheid-era law, the amendments to the Act by Parliament have provided a mandate to the Minister to continue to appropriate funds to enable land redistribution under changed conditions.

The Provision of Certain Land for Settlement Act 126 of 1993 (commonly known as ‘Act 126’) provided for the broadening of access to land through land purchase while retaining state powers of regulation over non-productive uses of land. While the COLA would only deal with unimproved state land, improved state land and private land would have to be *bought*. The Act provided for land use conditions to be imposed on land designated for settlement and exempted this land from the provisions of the Prohibition of Subdivision of Agricultural Land Act 70 of 1970. The Minister would retain the power to make regulations concerning any aspect of the Act, including the size of subdivided portions, and applicants would acquire land by purchase.⁵

The objects of the Act are:

‘To provide for the designation of certain land; to regulate the subdivision of such land and the settlement of persons thereon; to provide for the rendering of financial assistance for the acquisition of land and to secure tenure rights; and to provide for matters connected therewith.’⁶

Section 10 of Act 126 sets out the Minister's powers to acquire land or provide land purchase subsidies for the acquisition of land (see Box 1 below).

Box 1: Financial assistance for acquisition, development and improvement of land or to secure tenure rights (Section 10 of Act 126 of 1993, as amended by Act 58 of 2008)

- (1) The Minister may, from money appropriated by Parliament for this purpose of this Act –*
- (a) acquire property; and*
 - (b) on such conditions as he or she may determine –*
 - (i) make available state land administered or controlled by him or her or made available to him or her;*
 - (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose*
 - (iii) provide financial assistance by way of an advance, subsidy, grant or otherwise to any person for the acquisition, maintenance, planning, development or improvement of property and for capacity building, skills development, training and empowerment; or*
 - (iv) In writing authorize the transfer of funds to –*
 - (aa) a provincial government;*
 - (bb) a municipality;*
 - (cc) any other organ of state; or*
 - (dd) any other person or body recognised by the Minister for such purposes, which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.*
- (2) The laws governing land use, the subdivision or consolidation of land, or the establishment of townships, shall not apply to land contemplated in this Act unless the Minister directs otherwise in writing.*
- (3) The Minister shall have all the rights, powers and duties arising from or incidental to anything contemplated in this section and, without detracting from the generality of the foregoing, may –*
- (a) maintain property, including state land;*
 - (b) conduct a business or other economic enterprise; or*
 - (c) exercise the rights of a holder of shares or a right in or to a juristic person, other entity or trust, contemplated in subsection (1).*
- (4) Despite section 14 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and the provision of any other law to the contrary, the transfer of ownership of any property contemplated in this Act –*
- (a) may be passed and registered directly from the owner of such property to a person to whom the Minister has disposed of such property; and*
 - (b) shall be exempt from the payment of any transfer, stamp or other duty, fees of the deeds office or other charge.*

Source: Provision of Land and Assistance Act, 126 of 1993, as amended by Act 58 of 2008 (Section 10).

The amendment Act 58 of 2008 amended Act 126 in several significant ways. Firstly, it broadened the categories of property to be acquired, including moveable and immovable property. Secondly, it defines an 'agricultural enterprise' and empowers the Minister to acquire and dispose of such enterprises. Thirdly, it inserts new objects of the Act. Fourth, it substitutes Section 10, empowering the Minister not only to enable the acquisition of land, but to acquire property and to maintain, plan, develop and improve it, and to delegate these powers to state *and* non-state entities. Fifth, it empowers the Minister not only to sell, exchange, donate or lease, but also to 'award' any property to anyone. Sixth, it requires the Department to establish a 'separate unit' or 'trading entity' to 'maintain separate and itemized financial accounts and accounting records in respect of each agricultural enterprise or separately administered portion of immovable property which it acquires, managements, disposes of, or leases' (section 10A).⁷

Parliament's portfolio committee on Agriculture, Forestry and Fisheries initially objected to certain aspects of the amendments, including:

'The Committee felt that the beneficiaries of the land reform process were currently suffering losses and incurring debt as a result of bureaucratic intransigence and inadequate support to enable viable agricultural enterprises. There were also concerns that the procurement process itself was fraught with many dangers since there was no clear mechanism for determining the viability of commercial enterprises or "going concerns" and safeguards to protect beneficiaries from certain harsh economic realities.'⁸

However, many of these concerns relate to institutional and operational matters, rather than legislation *per se*, which has remained permissive rather than prescriptive. The widely permissive provisions of Act 126 create substantial scope for the Minister to determine the direction and content of the land redistribution programme. However, the discretionary powers provided are circumscribed by the requirements of procedural and substantive fairness, as set out in the Promotion of Administrative Justice Act, 3 of 2000.

In summary, Act 126 and its various amendments create wide-ranging power for the Minister to acquire, maintain, plan, develop or improve property, or to delegate these powers to any state entity or any other body or person. Actual progress with land redistribution, and its outcomes, therefore need to be assessed against both Act 126 (which empowers the Minister) and the Constitution (which mandates equitable access to land).

Constitution: Section 25(5) of Bill of Rights on 'equitable access'

Section 25 on Property (the 'Property Clause') in the Bill of Rights sets out a wide-ranging mandate to the state to enact land reforms and other related measures. Among the three components of land reform is an injunction to redistribute land, as follows:

‘The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.’ (section 25(5))

While section 25(1) prohibits arbitrary or discriminatory deprivation of land, there is a safeguard clause to prevent any provision from impeding reform to redress past discrimination:

‘No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).’ [ie. the limitations clause] (section 25(8))

The meaning of section 25(5) has not in the past 20 years been interpreted judicially; in other words, while other provisions, such as the right to restitution and to secure tenure, have been extensively challenged and adjudicated in the courts, what constitutes adequate measures to ‘enable citizens to gain access to land on an equitable basis’ has not. There is no existing jurisprudence as far as we are aware related to this right which forms the constitutional basis for land redistribution.

Constitution: Section 25(2-3) of Bill of Rights on expropriation and ‘just and equitable’ compensation

Section 25(2) of the Constitution allows for property to be expropriated ‘in the public interest’ and Section 25(3) requires that “*just and equitable*” compensation be determined “having regard to all relevant circumstances, including:

- (1) the current use of the property;
- (2) the history of the acquisition and use of the property;
- (3) the market value of the property;
- (4) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- (5) the purpose of the expropriation.

The ‘Policy and Procedures for Expropriation of Land in Terms of the Provision of Land and Assistance Act 126 of 1993 and the Extension of Security of Tenure Act 62 of 1997’ was adopted as policy in 1999. This policy document sets out an approach to determining what constitutes just and equitable compensation, rather than paying market price. It draws on a formula developed by Judge Antonie Gildenhuys of the Land Claims Court for calculating compensation based on the criteria contained in the Constitution. The ‘Gildenhuys formula’, is as follows:

$$\text{Compensation} = C - k_0(B-A) - E_1*k_1 - E_2*k_2 - E_3*k_3 \dots$$

where

C is the present day market value of the property,

*k*₀ is the inflation factor related to land acquisition, based on the CPI

B is the market value of the property at the time of acquisition,

A is the actual price paid at the time of acquisition,

*E*₁, *E*₂, *E*₃, etc., are the historical values of infrastructure and interest rate subsidies received, and

*k*₁, *k*₂, *k*₃, etc., are the corresponding inflation factors for these subsidies, based on the CPI.

This is just one possible approach to interpreting the criteria in Section 25(3) and has been widely criticised. Professor Lungisile Ntsebeza⁹, for example, points out that it still takes market price (25(3)(c)) as a starting point and that, although it discounts for past subsidies and other support received (25(3)(d)), it does not address the other three criteria cited in sections 25(3)(a) (b) and (e). Indeed, these are not easily reducible to a value in a formula. Rather, “*having regard to all relevant circumstances*”, these are to be determined in each case. The Commission’s own “Guidelines for Expropriation in terms of S42E of the Restitution of Land Rights Act 48 of 2003” describes the Gildenhuys formula as “flawed”¹⁰ but does not elaborate on its flaws.

President Zuma has announced on several occasions that the so-called “*willing buyer, willing seller*” approach to land reform is to be abandoned in favour of utilising the “*just and equitable*” provisions of Section 25(3). Several new expropriation bills have been published, and a new Expropriation Act was passed by both houses in 2016, but referred back by the President for further consultation. Unlike the Expropriation Act of 1975, this Bill allows for expropriation ‘in the public interest’ and with ‘just and equitable’ compensation, as provided for in Section 25. These moves suggest that expropriation may be used more often in the future, and also that the state will aim to use these criteria in negotiated sales as well – not only where properties are to be expropriated. The National Development Plan published in 2011 also proposes that an approach be developed to share the costs of doing land reform between the state and landowners.

In 2014, Parliament passed the Property Valuation Act, 17 of 2014, which among other things established an Office of a Valuer-General to address “*the absence of a nationwide comprehensive, reliable hub for the assessment of property values in the country*”. The OVG potentially provides institutional capacity to assist with interpreting ‘just and equitable’ compensation and creating policy and procedures in this regard. According to the Department, the OVG is a statutory office responsible for issues such as:

- the provision of fair and consistent land values for rating and taxing purposes;
- determining financial compensation following expropriation under the Expropriation Act or any other policy and legislation which is in compliance with the constitution;
- the provision of specialist valuation and property advice to government;
- setting standards and monitoring service delivery;

- undertaking market and sales analysis; setting guidelines, norms and standards required to validate the integrity of the valuation data; and,
- creating and maintaining a data-base of valuation information.

Payment of compensation other than at market rates now looks increasingly likely. Up to now, the difficulty that all participants face – claimants, landowners and the state – is the absence of a clear policy, guideline or formula to determine what constitutes ‘just and equitable’ compensation in any particular case. In each case the participants either start with market value and then add or subtract estimated amounts based on the other Section 25(3) factors, or contest whether there are other possible methods for determining the value of property in a particular case. The problem is that the government has not adopted policy in this regard other than the unused policy for the Provision of Land and Assistance and ESTA discussed above, and the Restitution Guidelines. There is no integrated approach to determining compensation. The White Paper on South African Land Policy has clearly been overtaken by later policies, laws and practices, and there is no national policy framework for land reform that could guide an approach to compensation across all areas of land reform.

The question remains: how do we determine just and equitable compensation? It is feasible to operationalise the criteria, as was done in the 1999 policy, and need not be a formula such as that adopted by Gildenhuys but rather a set of principles for a spectrum of circumstances. It is not known whether the OVG is working on such policy direction or not.

Framework for assessing performance

Here we clarify, in response to the terms of reference, the way in which we have approached assessing performance in the land redistribution programme.

First, we outline policy changes over time. Related to this are changing institutional arrangements, including the creation of two separate ministries responsible for land and agriculture, and relationships with other bodies, including the Land Bank and private consultants and service providers. We note changes in the objectives of the various land redistribution policies, their target groups, their modalities and implementation strategies.

Second, we assess progress with ‘delivery’ on a national scale, and break this down wherever possible by province, by year, and by sub-programme. We can do so for hectares, beneficiaries and expenditure, but we cannot compare hectares with beneficiaries, beneficiaries with expenditure. We therefore cannot draw firm conclusions as to how available resources have been spread across different projects and people. With regards to scale, we do not use the 30% target previously set as the primary point of comparison, as this target was set for 1999, then deferred to 2014, then to 2025, then apparently abandoned, and was in any case based on estimates of affordability rather than any inherent social, economic or political logic.

Third, we describe the forms of settlement and post-transfer support, including agricultural infrastructure, extension and operating funds, to beneficiaries of land redistribution. With regards to the outcomes of redistribution on the livelihoods of beneficiaries – and the crucial question of whether or not it is reducing poverty – we present the very limited official data, much of which is outdated, as well as evidence from several independent surveys and case studies.

This report therefore assesses policies made on the basis of the enabling legal framework discussed above, which are both enabling and prescriptive, as well as its implementation and the relationship between the policies, delivery and outcomes, on the one hand, and the overall political goals of land reform, as have been stated in various ways over time.

2. Policy changes over time

Land reform, one of government's main transformatory programmes and currently one of its top five priority areas, has itself been transformed over the past twenty years, reflecting changing policy agendas and ideological positions within the African National Congress and the tripartite alliance. Since 2011, a Proactive Land Acquisition Strategy (PLAS) has become the only route through which the state is redistributing land. This is now based on the state's buying up land and retaining ownership of it, leasing rather than transferring it to beneficiaries. Eligibility is broad and unclear, yet new insistence on 'production discipline' suggests that those with the resources to continue commercial farming operations will be prioritised, and that the state will evict its beneficiary tenants unable to do so. Initially described as an alternative to the 'willing buyer, willing seller' approach, the PLAS has further obscured the class agenda of land reform, widened the discretionary powers of officials and enabled new patterns of accumulation. While discursively framed as part of a radicalisation of the reform process, the redistribution process appears to be narrowing and is ripe for elite capture.

After twenty years of democracy, not only has land reform fallen far short of both official government targets and the public expectations of the early 1990s, its focus, criteria and modus operandi have also undergone several significant shifts. In 1994, the Reconstruction and Development Programme (RDP), and the first election manifesto of the African National Congress (ANC) set out among other things to transfer ownership of agricultural land in the white commercial farming areas to poor black South Africans (ANC 1994). The RDP target was to transfer 30 per cent of this land within the first five years of the programme. In terms of the overarching White Paper on South African Land Policy (DLA 1997), households with incomes below R1 500 a month were eligible to access a modest Settlement/Land Acquisition Grant (SLAG) with which to buy land and settle on it. By 1999, less than one per cent of commercial farmland had been made available to black South Africans; ten years after the advent of democracy, just three per cent had been transferred through all aspects of the land reform programme combined, and by 2013 about 6.5 per cent had been transferred.¹¹ In 2001, a revised policy, Land Redistribution for Agricultural Development (LRAD), was adopted, which removed the pro-poor bias of land redistribution and introduced the new aim of establishing a class of black commercial farmers. In 2006, PLAS, initially complementing and later, from 2011 on, replacing LRAD, saw the state buying land and leasing it out to beneficiaries, with the aim of eventually transferring it to them in private ownership – though plans towards this second transfer now appear to have been abandoned. This model was confirmed in a State Land Lease and Disposal Policy, adopted in July 2013, which establishes state land purchase with long-term leases as the model of redistribution. While there has been continued reliance on market-based purchase, significant changes have shifted the character of the programme, diverting attention away from securing tenure for the poor for multiple livelihood purposes.

Willing buyer, willing seller

The market-based or 'willing buyer, willing seller' (WBWS) approach was promoted by the World Bank during its mission to South Africa in 1993, drawing on its interpretation of successes and failures elsewhere, notably in Kenya in the 1960s and Zimbabwe in the 1980s. While it appears nowhere in law, this principle has underpinned the practice of land redistribution in South Africa, in the absence of a new Expropriation Act and its use, and despite provisions to the contrary in the Constitution.

WBWS loosely describes how land has been identified and acquired for redistribution, and how land prices are determined, within South Africa's market-based land redistribution process since the 1990s. The core elements of WBWS are: non-interference with land markets and unwillingness by the state to expropriate land for land reform purposes or (until recently) to enter the market as a market-player; reliance on landowners to make available land for sale; self-selection of beneficiaries; and the purchase of land at market price. Related features of the market-based approach are the preference for commercial forms of production and a prominent role for the private sector in the provision of services such as credit and extension to beneficiaries.¹² Even while there have been changes to policy, then, the underlying WBWS approach has remained.

White Paper on South African Land Policy (1997)

The policy finally adopted by the new Department of Land Affairs in its 1997 White Paper¹³ as the Settlement/Land Acquisition Grant (SLAG), resembled the market-based model proposed by the World Bank. On core questions it remained agnostic: what kinds of farming and social relations were envisaged, and how this would be brought about? Land redistribution merely aimed to contribute to a more diversified size structure in agriculture where all producers would compete in a deregulated environment. That this would entrench rather than erode inequalities – both between white and black and between family and corporate farming enterprises – was eminently foreseeable and is precisely what resulted.

Alongside this policy process, parties in the Constitutional Assembly debated whether to include a property clause in the Constitution, and if so, what its provisions should be. Ultimately, the ANC acceded to a property clause providing for expropriation of property subject to compensation, while also mandating land restitution, land redistribution and land tenure reform.¹⁴ But despite the ANC having fought for these provisions, the policy did not promote expropriation and instead adopted the market-based and state-assisted purchase of land proposed by the World Bank. The initial approach to land reform combined several other features. First, it promoted access to land for poor people only, as it was means-tested. Second, it provided a R16,000 household grant, initially equivalent to the urban housing subsidy, with which people could buy land. Third, while the policy focused on 'communities', many different interests were to be accommodated in the policy, including

people wanting land for their own use as well as those wishing to live and use their land together as community.

Yet the policy alienated almost all interest groups: the NGOs, who opposed its market-based framework; many of the rural communities with whom they worked, who were frustrated with slow delivery and the absence of support for them after they took ownership of their land; the white farmers, who objected to large-scale black settlement in the white commercial farming heartland; and black 'emerging' capitalist farmers, who were excluded from the programme by its pro-poor means test and whose aspirations to individual ownership of whole commercial farms were thwarted by its criteria and the small grants it offered.

The Land and Agriculture Policy Centre's (LAPC) ambitious initiative from 1994 onward to audit the demand for land had confirmed very widespread expressed demand, with 67 percent of respondents in a national survey indicating that they wanted access to (more) land to live on and use for production.¹⁵ It also showed that the vast bulk of this demand was for small plots, with nearly half (48 percent) indicating a desire for one hectare or less. It confirmed 'universal and immediate' demand for land for residential purposes from which to supplement other incomes and to pursue 'straddling' livelihood strategies – rather than the idea of full-time farmers that underpinned Tomlinson's vision. Many respondents aimed to use residential plots for gardening and hoped to be able to run livestock on commonage land. Agricultural production was found to be a secondary objective, to supplement income, rather than the primary demand among those surveyed. DLA argued that the LAPC findings illustrated that:

'the majority of landless people in rural districts and dense settlements prioritise a secure residential site, services and access to income, rather than agricultural land, even if such land were available in the locality, which very often it is not. It was then realized that it would not be sensible to insist that allocation of the HBNG should be conditional on the recipient physically moving to new land. Further, the question arose whether poor households, who did not wish, or who are unable, to move to new land, would be deprived of the land acquisition grant.'¹⁶

This provided a research basis to justify provision of a settlement grant and exclusion of a complementary grant for acquisition of agricultural land for farming at scale. While the target population was yet to be determined, the single policy instrument by which all these varied needs would be met *was* defined. It would take the form of a single once-off subsidy for 'settlement and land acquisition' which could be used to pay for land purchase and provision of basic needs on this land, including water, sanitation, waste disposal, internal roads and fencing – but not housing. This was because the grant was set at a maximum of R15 000 'to be consistent with the level of the existing Housing Subsidy' and as an alternative to it¹⁷ because, in the view of DLA senior managers, this was the only way to get the land grant to be taken seriously by the Treasury.¹⁸ Beneficiaries would be registered on the same national database, so that any household receiving a subsidy for land could not also receive a housing subsidy. Rather like the target of redistributing 30 percent of farmland

in the first five years, defining the level of the grant had been arbitrary, in the sense that it was not informed by any inherent logic. It was adopted because it was the solution that conformed to an existing formula for state transfers and would encounter least opposition from within the state bureaucracy. By the end of 1995, the DLA had conceded that the redistribution of land would be broadened to meet multiple target groups, including 'emergent farmers'. However, this concession did not become a reality until the lifting of the means-test in 2001.

In 1999, a new Minister of Agriculture and Land Affairs imposed a moratorium on all new SLAG projects, and initiated an internal review. No final report from the ministerial review was ever released. A preliminary report circulated within the two departments in December 1999 argued that the SLAG had unintended outcomes that 'often ran counter' to the objectives of existing policy¹⁹. What is widely agreed, and shown by several empirical studies, is that the SLAG approach of the White Paper had produced a 'rent-a-crowd' syndrome where names were added to applications in order to accumulate grant funding, without people having any intention to become part of a project. The minister's review, though, criticized the objectives of SLAG, not only its failing to meet its own aims. By encouraging group projects, 'SLAG indirectly supports the notion that Black people can only prosper under communal and subsistence farming'.²⁰ Specifically, she argued that land redistribution needed to address the needs not only of the poor but also of aspiring black commercial farmers who wish to farm along.²¹ The review process formed the basis for a new proposal, with input from the World Bank and South Africa agricultural economists contracted by them, which later became LRAD (see below).

Municipal commonage (1997)

Providing poor households with access to municipal commonage land is another way in which access to land has been redistributed, and the constitutional requirement of 'equitable access' promoted. The White Paper identified the need to redistribute existing commonage land and to expand commonages, as follows:

'Municipal commonage provides opportunities for land reform, primarily because it is public land which does not need to be acquired, there is an existing institution which can manage the land, needy residents live next-door and have certain rights to this land. A reallocation of commonage to poor residents who wish to supplement their incomes, could help address local economic development and provide an inexpensive land reform option.'²²

The problem of municipalities renting out commonage land to commercial farmers and other wealthy land users – often at rates far below market levels, and on long-term leases – was identified as a way in which public land was being used to entrench inequality, and therefore as an opportunity for redistribution. The White Paper committed government to assist municipalities to provide poor residents with access to existing municipal commonage

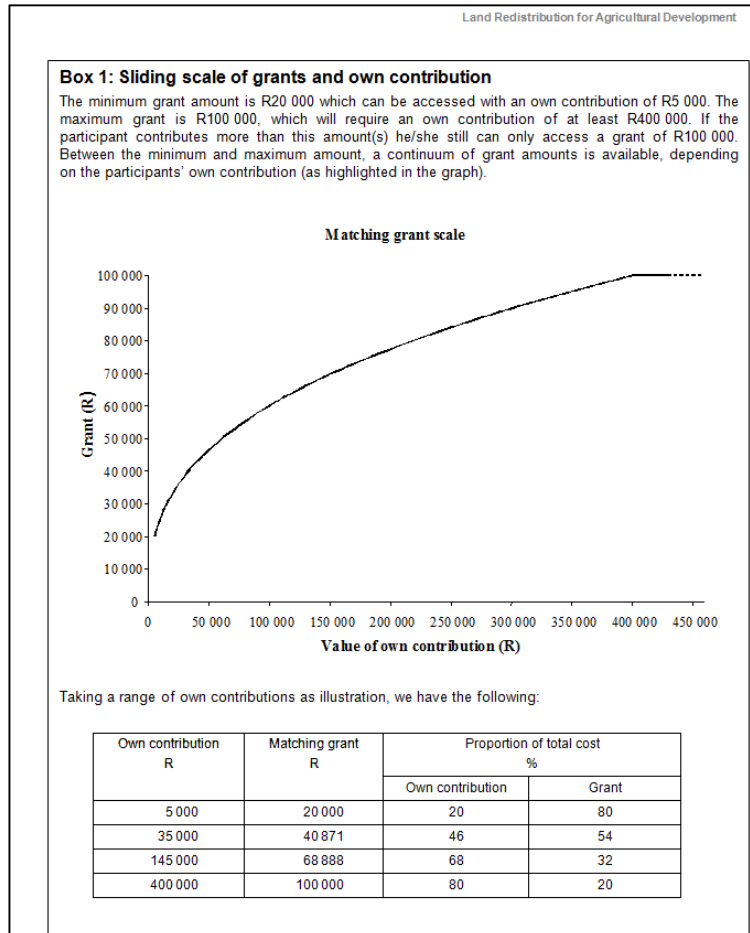
as well as to assist them to acquire additional land to create new, or expand existing, commonages.²³ A specific Grant for the Acquisition of Land for Municipal Commonage was created for this purpose.

Commonage was a large part of land redistribution in the first decade of democracy, providing poor people living around rural towns and villages with access to land for their livestock to graze, and for small food gardens. Commonage projects accounted for nearly half (44%) of all land redistributed in the period 1994-2002, while accounting for just 10% of the land reform budget in each year.²⁴ Its substantial contribution to redistribution is reflected in Figure 4 below. With the advent of LRAD, and later PLAS, the Department appears to have abandoned the commonage programme, though there has been no formal statement to this effect nor explanation. Overall, commonage may have been seen to be supporting small-scale farmers, rather than enabling wealth accumulation by capitalist farmers, and so did not fit with the shift first to LRAD and then to PLAS and Recap.

Land Redistribution for Agricultural Development (2001)

In this second phase of land redistribution, the attention shifted to creating black commercial farmers on a variety of scales.²⁵ In 2000, the World Bank returned to South Africa to work with the Department of Agriculture, to design a revised grant that would replace the SLAG programme and aim instead to create a new class of black commercial farmers. It criticised the government for setting up large collectives unable to manage and use their land, and for failing to address the class interests of those with the resources and capacity to go commercial. From 2001, the new Land Redistribution for Agricultural Development (LRAD) programme provided instead a sliding scale of grants from R20,000 to R100,000 per individual (see Figure 1).²⁶ The level of grant would now be determined by the level of contributions that applicants themselves could make, meaning that those who were better off would get more state support. The funds were now only available to those wishing to farm, and gave priority to those aiming to farm commercially who could show that they had the means to do so.²⁷ Under the watch of Thabo Mbeki, the class agenda of land reform had been inverted.

Figure 1: Sliding scale of grants under LRAD



Source: MALA 2001: 6.

Requiring applicants to contribute their own capital and assets was government's response to production failures on redistributed farms. Now, applicants' ability to contribute financially would serve as a proxy indicator of their commitment to farming: if they put in their own money, they would be 'committed'. No research was conducted to demonstrate that this would, or did, have the effect claimed. Nor did this address the possibility that people might be committed to farming but not have the money to invest. By removing the means test, government abandoned the one area in which it could (and did) confidently report success – namely that land reform had been successful in targeting the poor, even if not making real inroads into reducing poverty.

With LRAD, redistribution policy came to prioritise productivity and economic efficiency instead of poverty alleviation and rural livelihoods. This justified channelling available budget resources to fewer people than in the past. A 'picking winners' policy focused on

‘emerging farmers’ at a variety of scales, and assumed that all black farmers were ‘emerging’ from non-commercial and into commercial farming. It did not address the land needs of people wanting a secure place to live, instead of farming. Nevertheless, it fulfilled the political purpose of accommodating contradictory interests in the policy process by obscuring class differences.

By 2001, when LRAD was launched, Minister Didiza warned of the dangers of ‘squatter farming’ on redistributed land. She was responding to the commercial farming lobby’s attempts to pressure government to ensure that redistributed land would be commercially farmed – and that settlement on farm land in the commercial heartland would be strictly controlled. The government’s response was to limit group sizes in LRAD to 10 people per project; this would, she explained, address the problems of overcrowding and group-based conflict that had emerged under SLAG. The primary effect of limiting projects to 10 people, however, was to limit the number of properties that could be bought for redistribution, especially as government did little or nothing to enable farms to be subdivided. For those without money of their own, it meant that they had to find farms that they could buy, invest in and operate for under R200,000. Not surprisingly, very few such opportunities existed.

LRAD, remarkably, involved a return to the logic of the apartheid government’s DRLA scheme (see above), which also aimed to create a small class of black commercial farmers. Both were based on a logic that state subsidy, applicants’ own contributions and loans would comprise the market price of land to enable its purchase by aspiring black capitalists, from willing sellers. This focus on enterprising individuals, farming full-time, and the imposition of income targets shaped the implementation of LRAD, favouring businessmen with income from other sources and marginalising the majority of rural farmers who are women.

In this period, land reform, which was initially conceived as a means to transform the stark contrasts between white commercial farming areas and black bantustans, succumbed to deeply in-grained dualistic thinking. It would promote (mostly male) entrepreneurs in the commercial farming areas who would require private title to pursue full-time commercial farming while in the ex-bantustans, communal arrangements would persist for the majority of rural people, holding land as whole communities. Nearly 80 years earlier, President Hertzog did precisely the same thing: while allowing black and white to compete to buy land in the ‘released areas’ of the reserves, his Pact government restricted the size of black groups purchasing land to 10 people, to guard against expanded black settlements in farming areas. In contrast, both then and now, expanded community landholdings have been allowed as long as they were under ‘tribes’ and therefore the authority of chiefs.²⁸

Government adopted most of the World Bank’s recommendations, initially by removing state subsidies and controls from agriculture, and from 2000 onwards by revising its land reform goals to focus on promoting black commercial farmers. Government followed Bank advice even though it was not bound to do so through any loan agreements. But the new policies did not achieve their goals. Continued failure to subdivide farms meant that group-based projects remained the norm except for the very well-off; it

was simply impossible to buy and capitalise a commercial farm with the subsidies on offer. Another way in which the Bank's thinking manifested in LRAD was the equation of land reform with agriculture (and therefore 'beneficiaries' with 'farmers'). This was in contrast with the first aim of land reform in the 1990s, which was to provide secure tenure to land on which people could live and create a community and bring up the next generation. The latter was confirmed as being the priority of rural people, in a major land demand survey that found that the vast majority of people wanting land wanted less than one hectare.²⁹

As LRAD was implemented, unforeseen problems arose. The first of these was high levels of indebtedness, as many beneficiaries had taken out loans from the Land Bank in order to leverage higher LRAD grants from the Department. Two factors – the grant structure and reliance on land being offered for sale – led to a widely-recognised mismatch between applicants' needs and the land available. This led either to projects not going ahead or to applicants opting for land or group sizes inappropriate for their needs. The Surplus People Project (SPP), for instance, worked with a particular community in the Western Cape that tried repeatedly, and failed, to acquire land. In one attempt, the community attempted to buy a farm near Aurora in the Swartland region, but could not gather together sufficient applicants to make up the asking price of the whole farm and, although they did not want the whole farm, there was no mechanism to subdivide it into portions suited to their needs and capabilities. As a result, they remained landless.

National Land Summit (2005)

Substantial opposition not only to market-based 'willing buyer, willing seller' redistribution but specifically to LRAD was voiced at a major gathering, the National Land Summit, in 2005. Delegates complained that land purchase grants were insufficient and that landowners have been able to inflate prices and in some instances have chosen not to sell to land reform applicants. A credible threat of expropriation, coupled with below-market compensation was deemed necessary to encourage landowners to agree to reasonable offers. The Summit proposed a new direction for land redistribution, as itemized in the resolutions, summarised below.³⁰

- *Proactive role of the state:* With the exception of Agri South Africa (AgriSA), representing the established commercial farming sector, there was consensus on rejection of the willing buyer, willing seller principle, and a call for the state to become the driving force behind land redistribution. The alternative to willing buyer, willing seller was "proactive acquisition by the state in response to identified needs, through negotiated purchase and where necessary expropriation". There was a call for less bureaucratic processes and substantially increased resources to be allocated to the programme, including for staffing, to enable state agencies to engage in active negotiation with land owners and to expropriate land where needed.

- *Regulating land markets:* Various measures were proposed to regulate land markets to reverse the growing concentration of landholding, including a ceiling on the size of land holdings, a right of first refusal for the state on all sales of agricultural land, and imposition of a land tax to curb speculation and bring under-utilised land onto the market. These proposals were not unanimous; AgriSA contested all measures proposed. There was agreement on the need for proactive subdivision of farms to make available parcels of land appropriate to the needs of smallholders.
- *Who should benefit:* Although the issue was not extensively debated, the Summit resolved that specific measures should be taken to target the poor, women, farm workers and the youth. Implicit in this was a rejection of land reform as a means of promoting a black commercial farming class – though most speakers felt that a wide range of land needs should be addressed.
- *Payment and compensation for land:* There was rejection of paying market prices for land. Except for AgriSA, the Summit resolved that the provision in the Constitution to pay “just and equitable” compensation should be used to justify below-market compensation, taking into account various factors including past subsidies to landowners. There was a minority view that the Constitution should be amended to allow for confiscation with no compensation, in cases where land is unused or underutilized, and where landowners have been abusive of farm workers.
- *Moratorium on foreign land ownership:* Although not debated, the Summit called for a moratorium on foreign ownership of agricultural land but allowing leasehold. Some participants called for the redistribution of land already owned by foreigners and reparations for profits from speculative land purchases.
- *Constitutional reform:* There was a call to insert a “social obligations clause” in the Constitution, which would legally protect landless people who occupy land that is unused, underutilized or owned by absentee landlords or landowners who have abused farm workers. As in Brazil, this would allow land occupations to be regularized through expropriation from the former owner and titling of the new occupants.
- *Local government role:* Delegates agreed that municipalities must play an active role in land reform by identifying local needs, releasing municipal land, identifying land to meet needs and providing services and support to beneficiaries. Delegates proposed a register of land needs and a comprehensive audit of public and private land so that information on who owns what can be made publicly available. Local land forums to identify land needs would need to include landless people themselves, municipalities, the departments of land affairs and agriculture, and landowners.

- *Municipal commonage*: There was a call for municipalities to stop allowing commercial farmers to use commonage land, and instead to promote access for poor people and “emerging farmers” (black but not poor) to this public resource.
- *Models of land use and development*: The Summit issued a call for policy to revisit the dominant models of land use and agriculture and to prioritise public support for small-scale agriculture by investing in coordinated and better-resourced “post-transfer support”, including training, extension services, access to market and to finance. There was a call for a moratorium on “elitist developments”, such as new golf courses and game farms – a call reiterated by the President, Thabo Mbeki, just weeks after the Summit.

Within one year, a new strategy responding to the demand for ‘proactive’ identification and acquisition of land by the state was initiated, and ran alongside continued implementation of LRAD and related grant-based purchases until 2011, when these were discontinued and the state-purchase-and-leasing model became the entirety of land redistribution.

Proactive Land Acquisition Strategy (2006 and 2011)

In 2006, PLAS was launched under then Minister of Agriculture and Land Affairs, Lulu Xingwana. Initially an adjunct to the LRAD programme, the strategy really took root from 2009 under Zuma’s government, under the leadership of Minister of Rural Development and Land Reform, Gugile Nkwinti, during which time it emerged as the primary and, by 2012, as the only means of land redistribution. PLAS gives far-reaching discretionary powers to officials of the renamed and redefined DRDLR (previously the Department of Land Affairs) to purchase land directly, rather than disburse grants to enable beneficiaries to buy land for themselves. Officials may determine which land should be acquired by the state, whether it should be transferred or leased, and if so, to whom and on what terms. A key feature of PLAS is the provision of state land on leasehold, ostensibly on a trial basis pending an assessment which could pave the way towards a later ‘second’ transfer of ownership to beneficiaries. This direct purchase of farms by the state was itself a reversal of the state land disposal thrust emphasised by Mbeki. For this reason, all land sold by the state under Mbeki, and all land bought by the state under Zuma, now count towards the original RDP target of 30 per cent. As the PLAS framework explains:

‘The department leases farms to emergent black farmers for a minimum of three years [and] after the trial-lease period has expired the land can be disposed of to the same beneficiaries if they have been satisfactorily assessed by the Department. Out of the entire purchase price, the beneficiaries pay 6% as rental fee for three years as part of the loan agreement with DRDLR.’³¹

PLAS perpetuates the reliance on land markets and purchase of whole farms at market price, yet is 'state driven'. This raises the question of how to match people to land, or land to people: 'the state can buy/secure suitable land *before or after beneficiaries have been identified and quantified*'.³² Not only the timing, but also the mechanisms and criteria for identifying and quantifying beneficiaries, are left unspecified. The PLAS policy says its target is 'black people (Africans, coloureds and Indians), groups that live in communal areas and black people with the necessary farming skills in urban areas, people living under insecure tenure rights'³³ – arguably most of the population. Among these eligible groups, whose interests should take precedence, or how projects should be prioritised, is not specified. As for provisions for a second transfer, from the state to lessees, this would hinge on a formal assessment of the land use and productivity of beneficiaries, through an unspecified process to be overseen by the DRDLR in conjunction with the Department of Agriculture, now the Department of Agriculture, Forestry and Fisheries (DAFF). The desire to ensure the state's ability to remove failed farmers was central: 'Beneficiaries who are in arrears with their lease fees and who have not broken even during the lease period will be removed from the farming operation and new beneficiaries will be installed'.³⁴

More recently, this concern with making tenure rights contingent on state-administered determinations of proper land use, and the state's ability to remove and replace beneficiaries, was confirmed: 'Mr Nkwinti said the state would not hesitate to take away a farm and give it to another deserving entrepreneur if...the farmer failed or proved to be uncommitted'.³⁵

A central component of PLAS is the privatisation of implementation, through service level agreements with estate agents, financial institutions, commodity-groupings, as well as the Land Bank and major agribusinesses such as Illovo and Tongaat-Hullett (DLA 2006: 9). This has been entrenched further with the adoption of the Recapitalisation and Development Programme ('Recap', below) which similarly transfers state functions to private service providers, some of whom have business interests related to the projects in which they are involved.

The PLAS model was designed to involve a 'double transfer' of land: from the current owner to the state, and then later from the state to identified beneficiaries. The state, as the new owner, could determine the nature of the second transfer though the terms on which people would eventually acquire ownership was not clarified.

Area Based Planning (2006)

Initiated in 2006, 'area-based planning' (ABP) was considered to be a way to integrate land reform planning into local economic development. ABP plans for land reform were to be developed in each district, and form part of IDP processes, enabling municipalities to plan for and budget for support for land reform projects. These were to be developed through participatory processes, driven by a local steering committee including key national, provincial and local state institutions, and non-governmental stakeholders, to define a strategy, conduct a situation analysis, identify priority areas and identify specific projects to

be taken forward. ABPs were intended to guide land acquisition under PLAS. The ABP approach was piloted in several districts starting in 2006, before being rolled out nationally, however the process was halted in 2009, and reinstated in 2010. The current status of ABP processes is not known, and no details are evident in annual reports since 2007.

The only available review, published in 2012, assessed 22 district level area-based plans; of these, only four were not dysfunctional – ie. achieved either an ‘average’ or ‘strong’ rating in an assessment exercise.³⁶ The review found that some of the underlying reasons for ABP not working was that the Department contracted consultants who had no relevant capacity to develop ABPs; failed to engage municipalities and provincial governments in the inception phase before initiating these plans in their areas; terms of reference were vague and generic; .³⁷ Further, the Department had no authority to get ABPs approved as part of IDPs and municipalities considered these an unfunded mandate. This official review found that ‘very few if any of the plans were formally approved and there is little evidence of implementation’.³⁸

State Land Lease and Disposal Policy (2013)

The State land Lease and Disposal Policy of 2013, approved by Minister Gugile Nkwinti in July 2013, confirms the state leasehold model and sets out the criteria and approach to implementation. Unlike the prior PLAS, this policy prescribes 30 year leases, with the option of renewing for a further 20 years. Only after 50 years of renting from the state will beneficiaries may (or may not) become the owners of the land. It is unclear from the policy the terms on which these lessees might be given this option – whether it would be a donation, sold at a reduced price (ie. subsidized purchase) or some other approach.

The policy sets out four categories of intended beneficiaries, spanning different class situations at the time of application. These are:

- Category 1: Households with no or very little access to land, even for subsistence production.
- Category 2: Small-scale farmers who have been farming for subsistence purposes and selling part of their produce on local markets. This may be land in the communal areas, on commercial farms, on municipal commonage or on church land.
- Category 3: Medium-scale commercial farmers who have already been farming commercially at a small scale and with aptitude to expand, but are constrained by land and other resources.
- Category 4: Large-scale or well established commercial farmers who have been farming at a reasonable commercial scale, but are disadvantaged by location, size of land and other resources or circumstances, and with real potential to grow.

The policy does not specify scope for applications from people without any background in farming, despite this being a widespread practice, including allocation of farms to urban businesspeople who may have no background in farming (see below).

Proposed new policies

Since 2013, several new policies have been proposed by the Department and Ministry, but have not been officially confirmed. Despite this, implementation has proceeded in the absence of finalized policy. Two such policies are discussed here briefly. It is beyond the scope of this report to engage in detailed analysis of these policies – especially as we cannot obtain final written versions of the policies or any implementation manuals, nor have any details of their implementation been made public thus far, nor evaluations conducted as far as we are aware. Nonetheless, we offer some brief comments by way of assessing the broad approach adopted in each case.

The One Household One Hectare Policy aims to provide small allotments for vegetable gardening for non-commercial purposes on state land. The approach builds on a proposal by the Commission on Gender Equality of a ‘one woman, one hectare’ programme, also endorsed by the social movement, the Rural Women’s Assembly. This programme was launched by the Minister in October 2015, despite there being no formalized policy, ironically on the site of a land reform project initiated in 2008 (of 16 individuals households on 138 hectares), where the introduction of the ‘one household, one hectare’ principle implied a reduction in these beneficiaries’ access to land.³⁹ The African Farmers’ Association of South Africa (AFASA) has condemned the policy, expressing concerns that this will impede opportunities for its members to become commercial farmers at a small, medium and large scale. It advocates that the policy be implemented only in communal areas and not in commercial farming areas and high-value agricultural land.⁴⁰

The ‘50/50 Policy’: Strengthening the Relative Rights of People Who Work the Land was published in 2014 as a policy proposal to re-introduce equity share schemes on commercial farms. It provides that each farm owner is to retain 50% ownership of the farm, and will cede 50% ownership to workers, the value of which will be bought out by the state – an uncalculated figure, in the hundreds of billions of rands.⁴¹ Only long-term workers who have provided ‘disciplined service’ will get shareholding – despite the shift in the structure of workforces towards more casual and temporary forms of employment, especially for women. Those long-term workers who are eligible will acquire equity shares in the farm depending on their length of service. Despite these proposals being rejected by both farm workers and farm owner representatives at the Land Tenure Summit in 2014, the Department has commenced with implementation, even though no final policy has been adopted. Budgets have been redirected to the scheme, and away from land acquisition, with the Minister announcing in May 2016 that R500 million will be spent in this financial year on the 50/50 programme.

Proposed new legislation

Several new laws which will affect land redistribution have been proposed and are at varying stages of drafting, consultation and promulgation. It is beyond the scope of this report to

engage in detailed analysis of proposed laws, but we include some brief comments and analysis in relation to each.

The Expropriation Bill passed by Parliament in 2016 but not signed into law by the President would bring the law into line with the Constitution, especially in relation to payment of compensation. The new Bill removes the ‘veto power’ of land owners in relation to land reform; the state is empowered to expropriate for land reform purposes, as stated in the Constitution. It also aims to ensure consistency in expropriation undertaken by different arms of government. Despite not automatically resolving the wide-ranging problems facing land reform, enacting the Expropriation Act is a needed step forward to reducing the dependence on markets for land reform. After being passed by Parliament, the President has returned the Bill to both houses for further consultation.

The Regulation of Land Holdings Bill seeks to introduce ceilings on the sizes of agricultural landholdings; introduce race and gender designations in the Deeds Registry; and prohibit new purchases of land by foreigners. The Minister has stated that foreigners will be limited to 30-year leases (the same period as land reform beneficiaries). The purpose of the limit on foreign ownership is unclear, given the findings of the Panel of Experts on Foreign Ownership of Land (2004-2007) that only 2% of agricultural holdings were owned by foreigners, which suggests that it would have little impact and not advance land reform.⁴² The details of the land ceilings have been unclear: initially, the Minister announced a threefold set of ceilings at 1,000ha for smallholdings, 2,500ha for medium-sized farms and 5,000ha for large farms – a proposal whose internal logic remains confusing. The Minister later indicated an exception for certain categories of land, which would be limited to 12,000ha. The Bill was proposed and a policy framework published in 2014 (proposing that land ceilings be determined at district level), however no Bill has yet been made public.

The Preservation and Development of Agricultural Landholdings Bill aims to prevent the fragmentation of high-value agricultural land, and proposes a minimum threshold (ie. a ‘land floor’), establishes a National Agricultural Land Register and replaces the Subdivision of Agricultural Land Act 70 of 1970. Two versions of the Bill have been published for public comment, with consultations underway at the time of writing in September 2016. In relation to the restrictions on subdivision, the Bill contradicts the intentions of the Regulation of Land Holdings Bill, and returns to the logic of the Prohibition of Subdivision of Agricultural Land Act, 70 of 1970, namely to insulate certain categories of land from subdivision, on the basis of a hypothesized size-productivity relationship.

Conclusions

Recent experiments with land redistribution since the National Land Summit in 2005 show continuities not only with the struggling programme of the decade preceding that, but also much older ideas. Notions of ‘proper farming’ that were used by the apartheid government have been invoked yet again in the democratic era, shaping and often constraining opportunities, for poor people in particular, to secure rights to land, and precluding

fundamental social change in the countryside. In the past, the creation of ‘self-governing’ bantustans saw successive attempts to control and ‘modernise’ black agriculture, from the Tomlinson Commission in the 1950s, through betterment planning, through parastatal development corporations, to farmer support programmes in the 1980s. The ideological advancement of ‘modernisation’ of a small core of black emerging farmers was central to the apartheid government’s bantustan policies, which aimed to show ‘development’ and to secure political support from a black rural elite, while leaving the vast majority of rural people as surplus labour in the reserves. Such an agenda was premised on ideas about minimum farm sizes, income targeting, full-time farming – and these historically-produced and ideologically-underpinned notions continue to have currency in land reform policies today. These ideas should be interrogated, both because they lack intrinsic value and because their effect is to justify prioritising a narrow sector of black commercial farmers instead of creating a more inclusive redistribution process.

This review of policy changes shows how land redistribution has changed. Several significant changes were made: the land tenure arrangement has changed; the class agenda has changed; and the intended land uses have changed. Apart from the state now being the ‘willing buyer’, the method of acquisition has not changed, and remains one of market-based purchase (see Table 1 below).

Table 1: Summary of policy shifts and continuities over time

	Acquisition	Tenure	Class agenda	Land use
SLAG (1995-2000)	Market-based purchase	Transfer of title	Means-tested (ie. pro-poor)	Multiple livelihoods
LRAD (2000-2010)	Market-based purchase	Transfer of title	Not means-tested (unclear)	Agriculture only
PLAS (2006-now)	Market-based purchase	No transfer of title	Not means-tested (unclear)	Agriculture only

Source: Authors’ own design.

Changing the way that land is acquired does not by itself lay the basis for a new approach to land reform. While the plethora of policy initiatives since the Land Summit in 2005 has focused on how land is acquired – WBWS, negotiation, expropriation – little attention has been paid to the question of who is to benefit and, therefore, how land will be identified for redistribution.

3. Review of the scale, pace and spatial spread of land redistribution

It is widely held, among politicians, civil servants, and the general public in South Africa that the process of land redistribution is 'slow'.

Since the inception of the land redistribution programme, an annual average of 214,415ha has been redistributed. Is this a lot or a little? This depends on many variables, including how it compares with the 30% target (now apparently abandoned), and what quality of land is being redistributed. There are several ways to explore the scale, pace and spatial spread of delivery, which we look at in turn below.

Scale of land redistribution

Since its inception 21 years ago in 1995, the land redistribution programme has transferred 5.46% of commercial agricultural land (see Table 2 below).

Table 2: Summary data on land redistribution in relation to South Africa's land area

Land area of South Africa	Land area of former 'homelands'	Land area of former 'white RSA'	Commercial agricultural land	30% of commercial agricultural land	Total land redistribution to date	Land redistribution as % of commercial agricultural land
122 320 100 ha	17 112 800 ha	105 267 300 ha	86 186 026 ha	25 855 808 ha	4 701 542 ha	5.46%

Sources: Various. The source for the last two columns is DRDLR 2016: 4 (authors' own calculations).

Note: The figures in the last two columns are for redistribution only, and do not include restitution or tenure reform.

Some caveats are needed to help interpret these figures.

First, these figures combine three main forms of redistribution: transfer of ownership to beneficiaries (under SLAG and LRAD); transfer to a state institution (Commonage and PLAS); and transfer of shareholding in businesses (Equity Schemes under SLAG, LRAD and 50/50 policy). Some disaggregation is provided in Section xxxx below. The figures must therefore be understood as representing a combination of state-subsidised purchase, state purchase, and shareholding.

Second, not all land has been 'redistributed' in that, where equity schemes are established on commercial farms, hectares are listed as 'redistributed' even where workers hold shares in a farm rather than own the land. We are unable to determine whether, in such a case, the whole area of the farm is listed as 'redistributed' or whether a proportion

commensurate to the level of shareholding is listed (eg. 5% worker shareholding = 5% of the land area, or 100% of the land area).

Third, some land acquired or transferred may not be commercial agricultural land at all. For instance, some land acquired may be in urban areas or in communal areas, and may have been land acquired for non-agricultural purposes – before land reform became equated with agriculture. Nonetheless, we may presume that most may be considered land zoned for agriculture outside of the former Bantustans.

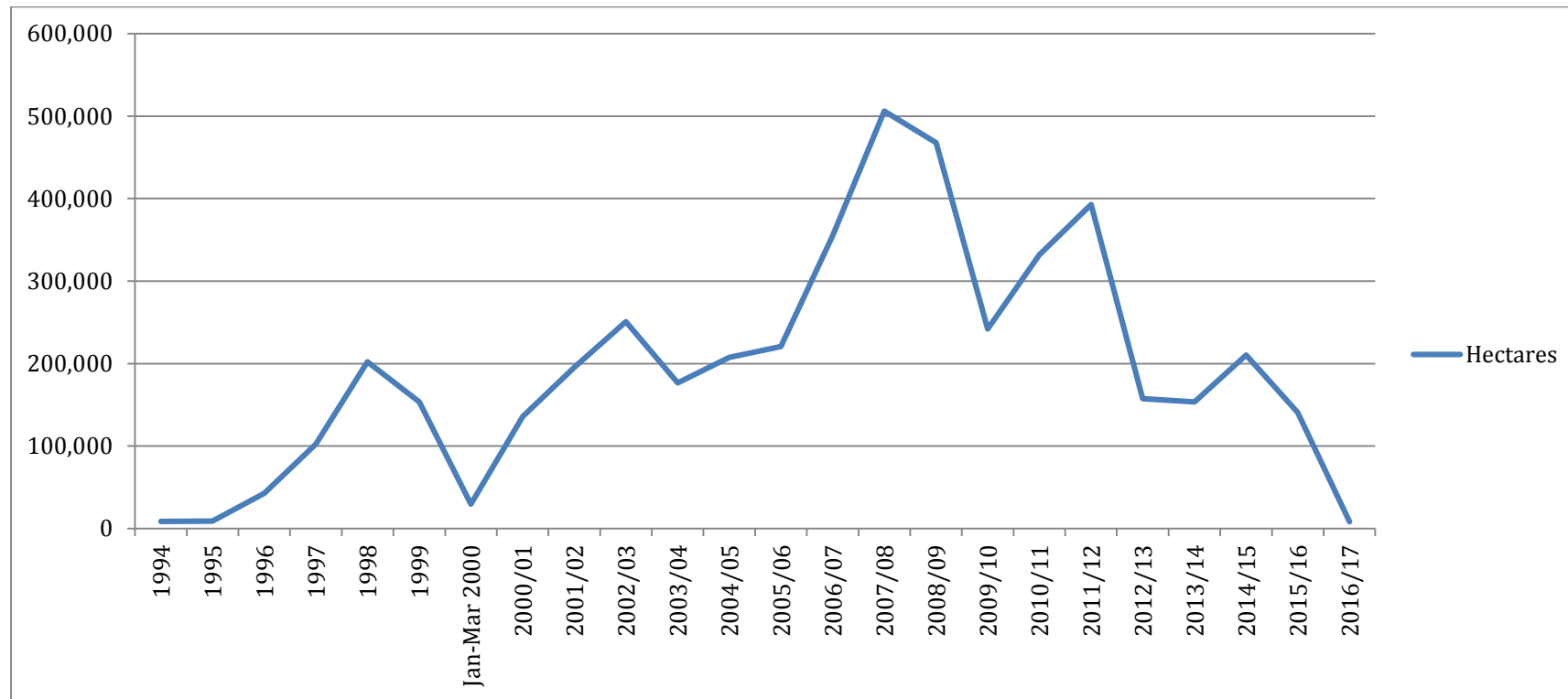
Pace of land redistribution

There has been a downward trend in the pace of redistribution, measured by hectares, since 2008, as shown in Figure 2 below.

The pace of redistribution has fluctuated with the changing of ministers (and in two cases ministerial reviews leading to policy change), but also in response to changes in budget allocation. The high point of redistribution was in financial year 2007/08. Last year 2015/16 was the lowest year since 2000/01, and the current financial year 2016/17 is projected to be the low point since the pilot programme of 1995.

What this shows is that the pace of land redistribution is far from even and political choices – not only in relation to budget – can have a big effect. It also suggests a winding down of redistribution in the past seven years. Overall, land redistribution is slowing down quite dramatically.

Figure 2: Hectares redistributed by year, nationally (1994-2016)



Source: DRDLR 2016: 4 (authors' calculations)

Note: Figures presented here are per calendar year for the period 1994-1999 and then by financial year from 2000/01 onwards. The delivery in the period Jan-Mar 2000 is shown separately between 1999 and 2000/01. Even if Jan-Mar 2000 were amalgamated with 2000/01 to make a 15-month period, it would still show a dip in the rate of delivery. Also note that the 2016/17 is incomplete, and so the degree of the dip for that year is exaggerated, but the dip is correctly reflected for 2015/16 and is projected to continue to decline in 2016/17.

Spatial spread

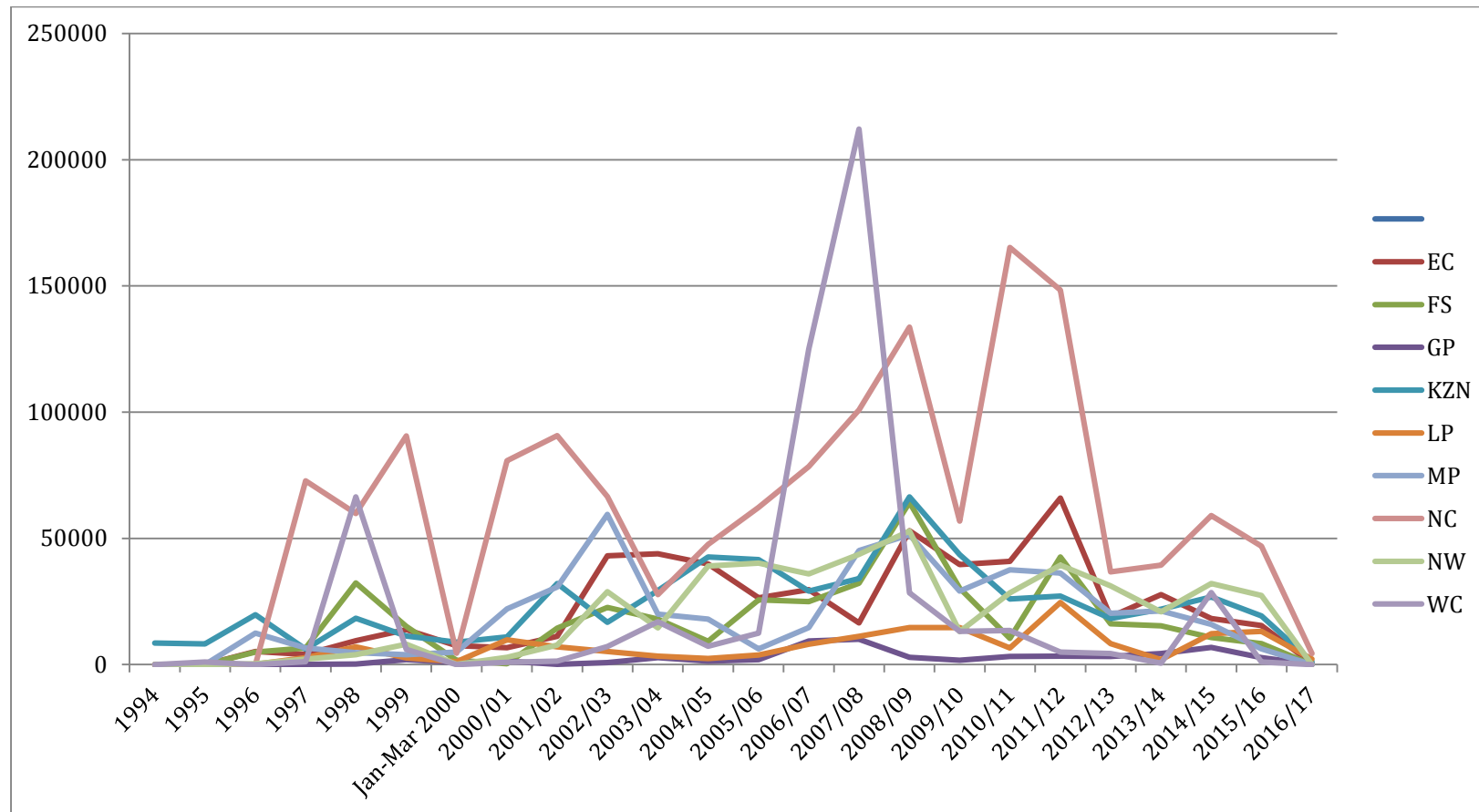
The provincial breakdown of land redistribution (see Figure 3 below) shows the general trend of the Northern Cape being the province in which most land is redistributed, and also shows increases in delivery in KwaZulu-Natal and the Eastern Cape in the past decade.

This picture of delivery of hectares by different project type shows strong provincial variations. It shows that in the early years of the SLAG projects (1994-2000 exclusively, and partially thereafter), more land was redistributed in the Western Cape and KwaZulu-Natal and Mpumalanga. The commonage programme (running concurrently with the SLAG programme) delivered most in the Northern Cape, which is not surprising and is explained by the demand for large areas of land for extensive grazing. Commonage has also been a fairly significant feature of land redistribution in the Eastern Cape, Free State and to a lesser degree in the North West. The largest area of land redistributed – via commonage in the Northern Cape – was achieved almost entirely in the decade between 1997 and 2006, after which the commonage programme appears to have been discontinued. It is striking that commonage was not promoted in KwaZulu-Natal, Gauteng or the Western Cape, and there was no commonage projects at all in Limpopo.

One of the implications of the provincial breakdown above is that far more land has been redistributed in the semi-arid Northern Cape than elsewhere.

With regards to LRAD (2001-2011), most land was redistributed in the Western and Eastern Cape, followed by KwaZulu-Natal and the North West. The least land redistributed via LRAD was in Gauteng, followed by Limpopo, Mpumalanga and the Free State.

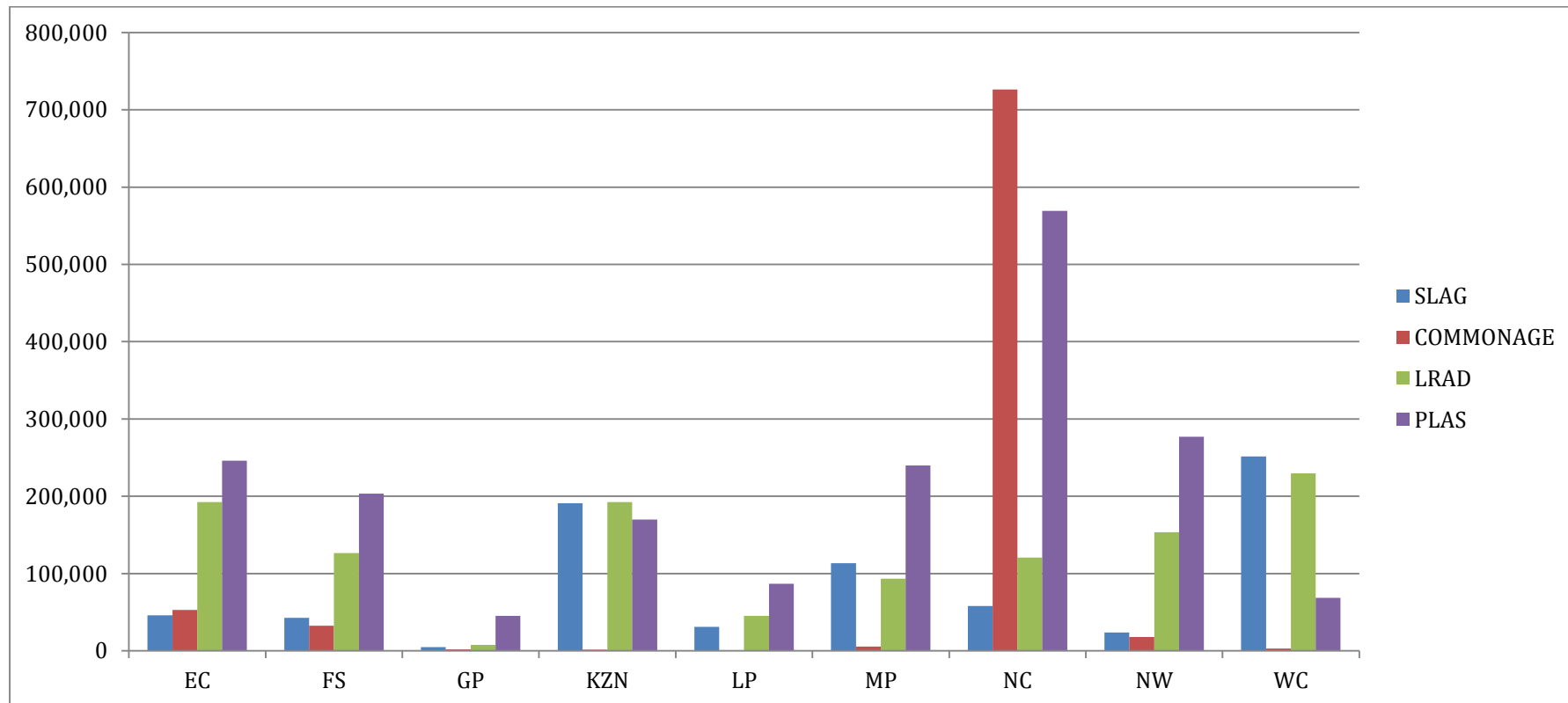
Figure 3: Redistribution in hectares by province, 1994-2016



Source: DRDLR 2016: 4 (authors' calculations)

Note: Figures presented here are per calendar year for the period 1994-1999 and then by financial year from 2000/01 onwards. The delivery in the period Jan-Mar 2000 is shown separately between 1999 and 2000/01.

Figure 4: Hectares acquired and redistributed, by province, 1994-2016



Source: DRDLR 2016: 3 (authors' calculations)

Note: the project category SPLAG (Settlement Planning and Land Acquisition Grant) have been combined with SLAG. Other minor categories have been omitted: 50/50 (a total of 2,632ha nationally) and 'other' including donations and church land (a total of 29,213ha nationally).

As far as we can determine, there has been no spatial targeting directed from the national level, or at least there are no public documents indicating as much. District and provincial offices have made the decisions about where resources should be prioritised. In the future, the choice of land will depend on a range of factors, such as concentrations of population. A priority now is to determine how a programme of land reform should target people and land – and match these. Therefore, differentiated land needs must be identified. Such questions will be even more crucial in any future policy based on 'need'.

A further result of the market-based approach is the dispersed pattern of redistribution, in which individual properties are acquired one-by-one, requiring separate planning in each case. This precludes economies of scale in planning for whole areas where land could be redistributed, as well as the provision of infrastructure appropriate to new land users and uses. This may be characterised as a 'mosaic' pattern of redistribution, which proceeds in an ad hoc manner. In contrast, acquiring and allocating land at scale will require moving to acquire whole blocks of properties in areas of high demand, in a 'partition' model. A combination of these may be needed, but partition approaches, or block purchases, will be particularly important in areas surrounding rural towns and around the edges of the communal areas.

⁴³ Planning for blocks of properties, as in Zimbabwe's resettlement programme of the 1980s, would reduce planning costs, including those of land surveyors and conveyancers involved with subdivision and transfer (if land is to be transferred in private title).

Land redistribution requires that privately-owned land be targeted – though this by itself does not assist with spatial targeting. A common perception that there is an abundance of state land that could be redistributed is fallacious. A total of 80.4% of all land in South Africa is in private hands and, of 24 million hectares of state land, 18.5 million constitute the communal areas in former homelands, national parks, provincial parks and other protected areas. Of the remaining 5.5 million hectares of state land, the largest category is ex-South African Development Trust (SADT) land outside of the former homelands (i.e. land acquired for homeland consolidation) and land acquired for land reform purposes (DLA 2002). Other smaller categories of state land, in descending order, are public works land, provincial land, and land controlled by the government departments of water affairs and forestry, defence, and correctional services⁴⁴.

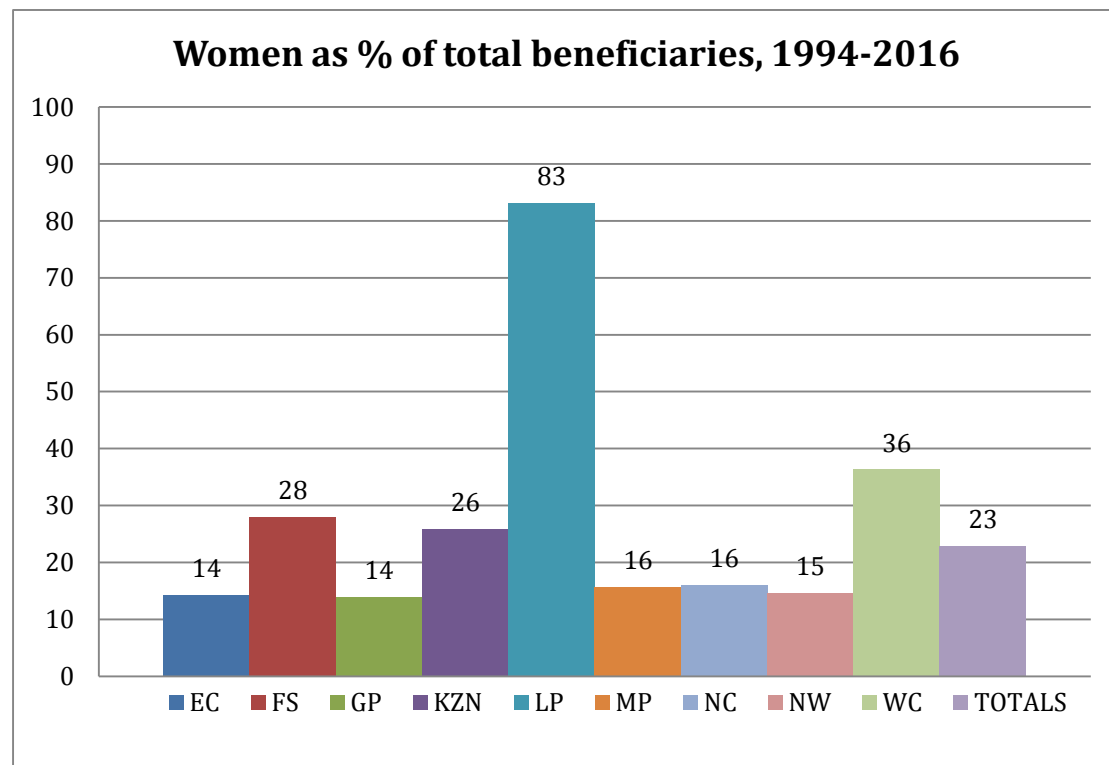
What we find from the redistribution data is that there are substantial provincial variations in how much land has been redistributed. This is the case both overall, and in relation to particular programmes (see Figure 4 below). It is not possible to provide any information about the spatial distribution of land reform projects other than at the provincial level. Ideally, in the future, online mapping would enable greater clarity.

Gender distribution of land

All policies relating to land redistribution emphasise gender equity as a goal, and prioritise women to gain access to land. What exactly this prioritisation consists of is unclear.

Nationally, women constitute 23% of land redistribution beneficiaries.⁴⁵ We do not have detailed breakdowns of women beneficiaries, or women headed households, under the various land redistribution programmes. However, we can present summary of women as a percentage of land redistribution beneficiaries by province (see Figure 5). We cannot draw conclusions as to why the figures for Limpopo are so much higher than elsewhere; further studies including interviews and analysis of project data would be needed to explain this pattern.

Figure 5: Gender distribution of land beneficiaries



Source: DRDLR 2016: 4 (authors' calculations)

In short, while all land reform policies claim to promote gender equity and prioritise women, the national data shows that women are a minority of beneficiaries in all provinces bar one. We cannot show whether there have been changes over time. Overall, women make up less than one quarter of beneficiaries.

4. Beneficiary selection

How 'beneficiaries' are selected has changed substantially over time. This is due in part to the change from an application-based subsidy programme for land purchase by beneficiaries (under SLAG and LRAD and associated programmes) to the state purchase and allocation on leasehold model of PLAS. Three issues are addressed briefly here: first, the categories of intended beneficiaries and how these are to be prioritized, as stated in policy and where possible where evident in practice; second, the actual institutional procedures and actors involved in making determinations as to who should benefit and how these have changed over time; third, what is known about who is being selected to benefit from land redistribution and how this compares with the intention of policy.

Intended beneficiaries and priorities

Here we briefly review the changing terminology for beneficiary targeting in the redistribution policies since 1994. The White Paper said:

The purpose of the Land Redistribution Programme is to provide the poor with land for residential and productive purposes in order to improve their livelihoods... Land redistribution is intended to assist the urban and rural poor, farm workers, labour tenants, as well as emergent farmers.⁴⁶

Among these broad groups of 'the poor' certain priority criteria were established: 'The most critical and desperate needs will command government's most urgent attention. Priority will be given to the marginalized and to the needs of women in particular.'⁴⁷

Under LRAD, policy specified certain categories of people as priority groups to be targeted, namely the four 'marginalised groups' of women, farm workers, the disabled and the youth (35 years and below) (see, for instance, all departmental plans and annual reports since DLA 2003). These are apparently a proxy for the 'poor', introduced after the removal of the income-based criterion that limited eligibility on the basis of a means test. Whether the poor in fact did predominate among beneficiaries is far from clear; available data do not show whether or not this was the case. These groups might have got preference in the evaluation of project proposals, but there was no evidence of a differentiated strategy to seek them out and then give them priority.

More fundamentally, the focus on 'marginalised groups' was in tension with the 'own contribution' required by LRAD, which, according to policy, is intended to demonstrate (and lead to) a degree of commitment by beneficiaries to dedicate themselves to farming, which, in turn, is supposed to lead to project success (MALA 2001). These arguments, however, are more moral than empirical; they also imply that the better-off are more committed, since this is recognised in the form of own contributions of capital, assets and loans.

The requirement to submit business plans, under LRAD (and also for Recap) also generates exclusions. The use of income targets in some provinces requires applicants to demonstrate their anticipated profit in the first year of operation – effectively making the majority of poorer applicants ineligible.⁴⁸ The criteria being applied in approvals processes may result not only in applications being rejected, but there is some evidence that consultants and planners encouraged LRAD applicants to take out loans as one way of making the figures work on paper, thereby promoting indebtedness which became a major problem facing LRAD beneficiaries.

Under PLAS, eligibility is broad: black South Africans not employed by the state – and including households with limited or no access to land; expanding commercial small holder farmers; well established black commercial farmers; and financially capable aspirant black commercial farmers. The two main rural constituencies privileged in the Freedom Charter's statement that 'The Land Shall Be Shared Among Those Who Work It!' – residents of the bantustans, and farm workers and labour tenants – are not explicitly privileged in the land reform process currently, but compete for public funds (in selection processes obscured from public scrutiny) with those able to bring capital and skills from other sectors.

In all periods, how these varied target groups are to be addressed and weighted has not been clarified. Decisions about who actually gets land are opaque, as discussed below.

Institutional processes for beneficiary selection

A National Land Allocation Control Committee (NLACC) was established following the adoption of PLAS as the body to oversee and approve the allocation of land. Its name was later – though we cannot ascertain when – changed to the National Land Allocation and Recapitalization Control Committee (NLARCC), indicating the expansion of its mandate to overseeing and approving now only land acquisition and allocation to beneficiaries, but also the approval and disbursement of Recapitalisation funds.

The SLLDP specifies requirements to guide beneficiary selection:

'7.5. The recommended lessees should have been selected from an updated district database of potential beneficiaries. Such database shall be maintained by Director: Land Reform.

7.6. In the absence of a district database of potential lessees, the Director: Land Reform shall apply transparent mechanisms to ensure that such a database exists. Such mechanisms may include advertisements in local newspapers.'

⁴⁹

We were unable to determine whether or not districts have databases of potential beneficiaries, as indicated in the SLLDP, nor whether any proactive measures to engage with potential beneficiaries have been taken, such as advertising in local newspapers. As a result,

we cannot draw conclusions about how beneficiaries are selected, and therefore how the state decides on whom it will spend public money.

Evidence of who is being targeted and prioritized

The short answer is that we simply do not know.

More than a decade ago, a review of the LRAD programme found that most applicants were applying for grants towards the bottom end of the sliding scale, and inferred from this that the programme was indeed mostly targeting the poor. There was a difference between projects implemented by provincial offices versus projects implemented by the Land Bank, with the latter able to leverage higher levels of grant, due to having access to loan finance.

With the advent of PLAS, where there is no means test and now also no leveraged grant, there is no way to say the degree to which the purported target beneficiaries are in fact being targeted, and which of these target groups are being prioritised. At a national level, for instance, we cannot determine the degree to which land redistribution is now a programme for 'the rural poor, farm workers and women in particular' or is a programme for 'emerging commercial farmers' and also for urban-based businesspeople, a category not mentioned in policy but evident among beneficiaries.

5. Constraints to scaling up land redistribution

Here we consider some of the constraints to scaling up land redistribution, and specify budgets and land prices; (the absence of) subdivision; institutional capacity and design constraints. A general trend in the early years was for substantial under-spending even of the limited budget for land reform. This ended with LRAD, when expenditure rose rapidly, and projects would have to queue for disbursement. In the past decade, the lowest level of expenditure was 92% of the budget allocation.⁵⁰

Budget constraints

One of the constraints to land redistribution is that of budget, which is addressed in section 11 below. It must be clarified, though, that budget is a constraint in several different ways. First, the choice to pay market price means that available budget constrains how much land can be acquired. For this reason we review land price trends below. Second, the internal allocation of budget across competing priorities – eg. land acquisition, Recap, 50/50 policy and Agriparks – means that even given a certain budget envelope, redistribution is limited by the diversion of funds to other purposes. Third, the capacity of the Department to implement its programmes is constrained by operational budgets. We deal with these various constraints in turn in this section, but also draw attention to non-budgetary constraints, notably the way in which land redistribution has been designed, which is both bureaucratic and market-dependent, requiring professional services – usually outsourced to private service providers – in relation to each project.

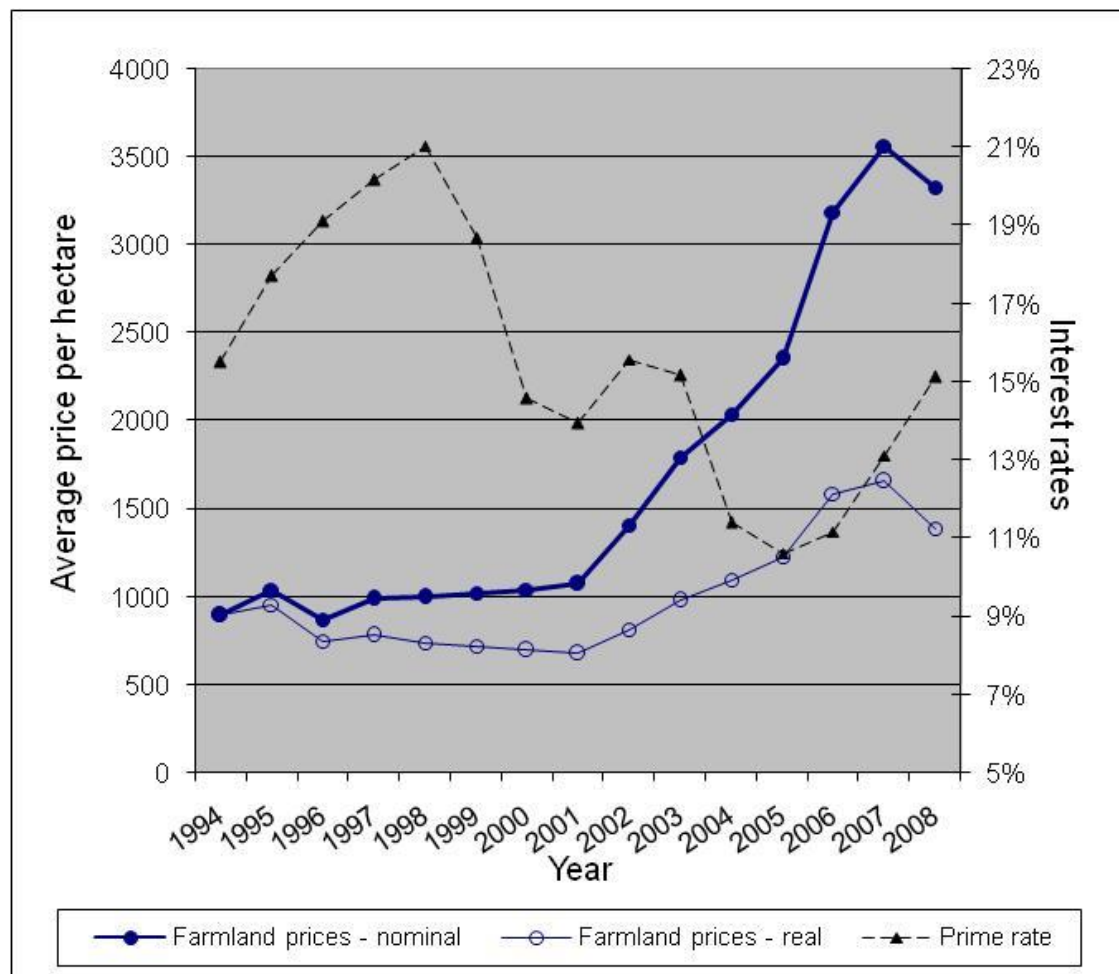
Land prices

The best evidence on land price trends and their implications for land reform is a report⁵¹ from 2009 commissioned by the Department; no more recent information is available. One of the main objections to the WBWS approach is that it is too expensive. This is true in the sense that the market price of much farmland far exceeds its productive value. But one must clarify: too expensive for whom? If it is too expensive for applicants, which it clearly is, it is a sign of an inappropriate grant structure, which provides small subsidies compared to the cost of buying and investing in land. If it is too expensive for the government, however, then ways of bringing down the cost and paying in forms other than upfront cash must be found. While the LRAD grant was ‘flexible’ in providing different levels of funding depending on what people can contribute, it was entirely *inflexible* in responding to different land prices across the country, effectively excluding the landless from the programme in high-value farming zones. Land prices are a major obstacle in terms of the existing grant approach and, unless brought down, will similarly limit any proactive approach in which the state purchases land for beneficiaries.

Land prices have risen rapidly since 1999, due to declining interest rates and increased non-agricultural interests in land (e.g. for tourism purposes). On the other hand, volatile and

declining commodity prices in some sectors have had the opposite effect, pushing prices downwards. When adjusted for inflation, the rise in average land prices between 1994 and 2003 was an average of 14% per year, although this obscures much more stark price rises in certain regions of the country. For instance, in 2003, farmland reached R28 000 per hectare in some registration divisions in the Western Cape, and some equity schemes involved prices of up to R150 000 and even R165 000 per hectare (though these factor in the value of the operating enterprise as well as the land). By 2007, the DLA was buying sugar cane land for about R35 000 a hectare and up to R55 000 in parts of Mpumalanga. About 4.6 million hectares (5.5%) of farmland was transacted each year, well over the total land redistributed through land reform during this entire period.⁵²

Figure 6: National trends in nominal and real farmland prices, 1994-2008

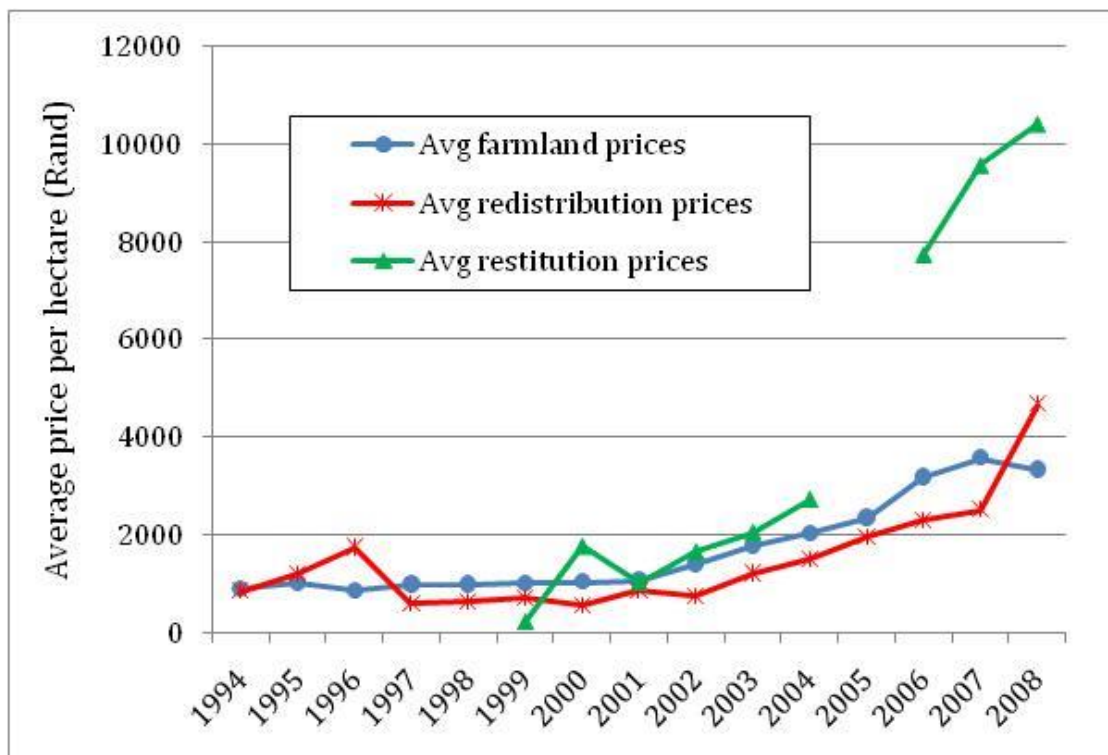


Source: Aliber 2009: v.

The farmland price trends shown above demonstrate that while nominal prices rose sharply from 2001-2007, when adjusted for inflation, the real growth in farmland prices was far more modest, but still upward during this period, and dipping after 2007. The trends also show the significant impact of fluctuations in prime lending rates on farmland price growth, though interest rates and prices do not exactly co-vary.

A further way in which one can look at land prices as a constraint to land reform is to ask whether the prices being paid are at, above or below average prices. Figure 7 below shows that, from the late 2000s, the amounts being paid per hectare on average in both redistribution and (to a greater degree) in restitution exceeded the general average price. In restitution, this may be because high-value land is under claim, but also because the state may offer higher prices to landowners who refuse to sell so that claims can be settled. In redistribution, one cannot say for sure why higher prices are being paid; this could indicate that higher-value land is being targeted, or that the state is paying above-market value. With limited information available, one cannot say for sure why this is the case, and also what the trends have been since 2008.

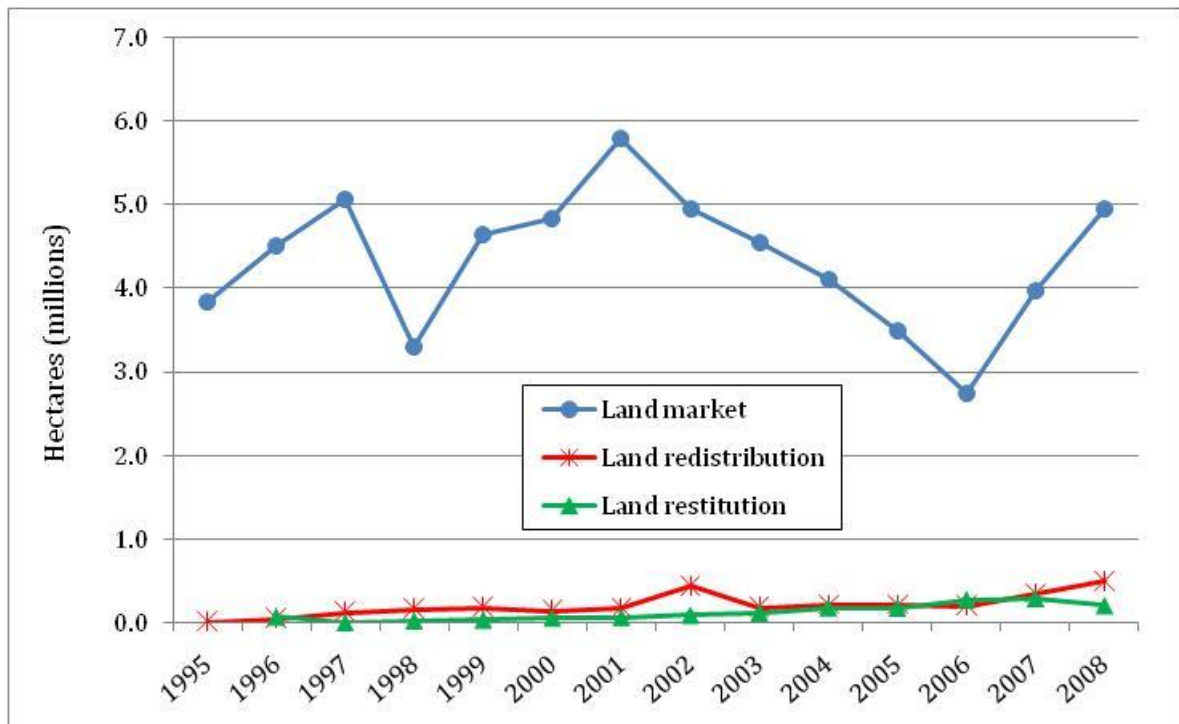
Figure 7: Hectares transacted in the farmland market and via redistribution and restitution



Source: Aliber 2009: vii.

Land reform – redistribution and restitution – have constituted a relatively small portion of the total scale of transactions in agricultural properties (see Figure 8). Overall, between 5% and 6% of agricultural properties are transacted each year, but only a very small proportion of these are for land reform purposes.

Figure 8: Hectares transacted in the farmland market and via redistribution and restitution

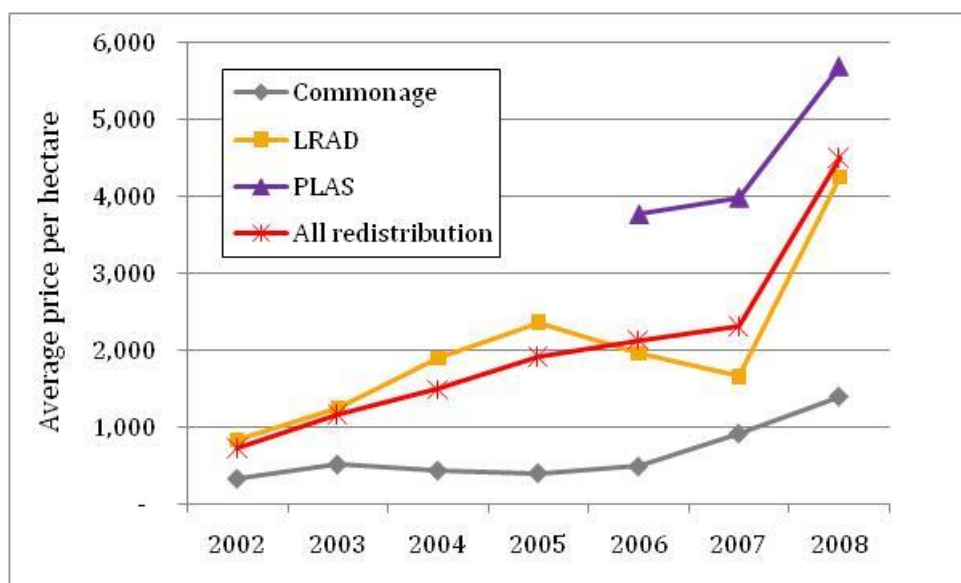


Source: Aliber 2009: viii.

Naturally, land prices differ markedly across the country. Most variation in land prices is within, rather than between, provinces: between different sectors, different regions and different sized properties. Underlying the variation are not only differences in the quality and productive potential of land but also other factors, including non-agricultural interests in land.

Land prices paid for land acquired has varied also across redistribution programmes (see Figure 9). Typically, commonage land has been cheaper to acquire, largely because of it being a programme most pursued in low-potential areas. However, the distinctions between SLAG, LRAD and PLAS suggest that PLAS is targeting high-value properties, compared to the prior redistribution programmes. The year 2008 saw a dramatic upswing in the prices paid for land redistribution, across all programmes, and it is presumed that this continued, given the faster rate at which delivery has declined than budget has declined in the past 5-7 years.

Figure 9: Comparison of price trends for different redistribution sub-programmes



Source: Aliber 2009: 11.

Is it worthwhile and feasible for the state to bring down land prices? The state needs to consider the trade-off between the *fiscal cost* of major budget increments, and the *political cost* of either allowing the slow pace to continue or of taking steps to reduce the cost to the state (for instance, by paying below market price compensation). It is to be expected that, as well as wanting to bring down prices in order to implement land reforms, the state has a contrary and overriding interest to maintain price levels and to see growth in land prices, both because this is a measure of economic growth, and also because it is in the interests of two powerful constituencies: landowners and banks. A political economy perspective should make one sceptical about the proclaimed desire of the state to put in place measures that will lead to falling land prices.

Overall, land price trends have been upward, with the exception of the period immediately following 2007. The Department has not commissioned (as far as we are aware) nor published land price trends since 2008.

Institutional capacity

Staff vacancies in the DRDLR have long been a challenge in terms of the institutional capacity to embark on land reform. The most recent annual report shows that, while the Department's overall vacancy rate is just over 10%, the empty posts in the Land Reform programme stand at 26.03%. This is somewhat higher than the empty posts in the Restitution programme, which were at 21.16%. Many of these are implementation rather

than managerial costs. Overall, the staffing data suggest that these programmes are running at between 75-80% of full capacity.

This measure is of course limited, and only shows institutional capacity relative to the number of established posts.

There are other institutional constraints as well, not least the highly bureaucratic and centralized nature of decision-making. Three phases can be identified: in the initial phase of the land reform pilot projects and into the SLAG era, decision-making was highly centralized. Under LRAD, project approval was delegated to provincial offices, enabling faster approval processes, which meant fewer properties were withdrawn and sold elsewhere on the private market. However, these delegations have been reversed, and there has been a re-centralisation of project approval under PLAS, under the NLARCC (see section 4.2 above).

Subdivision

A major impediment to land reform, and to changing farming systems through land reform, is the difficulty involved in subdividing agricultural land.⁵³ The Subdivision of Agricultural Land Act 70 of 1970 limits when and how this may happen, and was originally intended 'to curtail the fragmenting of agricultural land into uneconomic units'.⁵⁴ In effect, this Act was used for zoning purposes, as a measure to limit changes in land use and specifically to guard against the subdivision of agricultural land for residential purposes. Such restrictions are not peculiar to South Africa; throughout the settler colonies of southern Africa, colonial agricultural officials developed criteria for 'economic units' or 'viable farm sizes', differentiated according to agro-ecological zones. Their origin, however, lies not in any inherent economy of scale in production, but rather subjective and ideologically informed calculations regarding *acceptable levels of income* for commercial farmers.

This attachment to 'viable farm size' has been challenged by evidence of an *inverse* size-productivity relationship in certain situations.⁵⁵ The key argument in favour of subdivision in the international literature is that there are few intrinsic economies of scale in primary production and that, other things being equal, smaller landholdings in which there is no hired labour are more efficient than large farms.⁵⁶ However, whether or not small farms are more efficient than large ones is *contingent* on what is being produced, with what technology and for which markets. Where economies of scale in primary production *do* exist, they are largely due to the use of substantial inputs like machinery (e.g. combine harvesters) and the costs of compliance with private and public regulation – although co-operation among smallholders, with support from the government or the private sector, can overcome these barriers.

In South Africa, recognition that subdivision restrictions are based on normative, and anomalous, prescriptions for the incomes of commercial farmers led to the Subdivision of Agricultural Land Act Repeal Act 64 of 1998, which does precisely what its name suggests – repeals the Subdivision Act (and all subsequent amendments) in its entirety. Despite being

passed in September 1998, a full decade later it had still not been signed into law by the President – apparently because of the need for new land use management legislation (see discussion above on the Land Use Management Bill), although the real reason may be more political than technical, as some commercial farming interests have lobbied in favour of retaining these restrictions. Meanwhile, section 10(3) of the Provision of Land and Assistance Act 126 of 1991 exempts land reform projects from restrictions on subdivision. For this reason, the most significant obstacles to subdivision for land reform purposes are not legal; rather, there are substantial financial, institutional and ideological obstacles. Most fundamentally, there are no state initiatives to promote subdivision, and inadequate incentives for owners to subdivide, because there is not a sufficiently large, secure market of smallholders ready to purchase land; sales contingent on grants being approved provide very little incentive to landowners to incur subdivision costs upfront.

There are two situations in which subdivision is needed for land reform purposes. The first is to divide portions of existing farms for redistribution, so as to offer a variety of land parcel sizes. This is also essential if under-utilised land is to be targeted. In conjunction with a land tax, which raises the costs to landowners of retaining ownership of large tracts of un-utilised or under-utilised land, subdivision can assist in making land available in smaller parcels suited to the needs of potential beneficiaries. The LRAD programme anticipated that farmers themselves, or developers, would take this initiative, carrying the costs of subdivision and investing in improved infrastructure in order to sell off individual units through redistribution⁵⁷, a scenario that has simply not materialised. The second situation is where large properties are acquired for redistribution and then divided into smaller portions for allocation to beneficiaries. The latter was the route followed in Zimbabwe during the 1980s, where the state bought large farms, often in contiguous blocks, and then subdivided these either into medium-sized farms or into smallholdings, making possible the allocation of common grazing land and the provision of required infrastructure to serve multiple properties. Under PLAS, subdivision could be straightforward but we have not encountered cases in our limited research where subdivision was pursued; rather, informal allocation of areas of land within one property to different families seems to be the general practice.

Subdivision is a precondition for intensifying land use in countries with a highly skewed distribution of land ownership, such as South Africa, where under-utilisation of agricultural land is considered to be substantial. The availability of small parcels of land is crucial, not only at an initial stage of redistribution, but also subsequently, to enable those who wish and are able to move into new types or larger scales of production to extend. To determine the availability of smaller properties, the Department proposed that 'local governments and municipalities should be requested to provide an audit of agricultural smallholdings within their boundaries'.⁵⁸ However, this one mechanism to determine the availability of smaller agricultural properties – the Municipal Land Audit – has not been conducted.

Subdivision has remained an obstacle throughout the policy changes in land redistribution. While LRAD offers the 'flexibility' of grant size, there is no equivalent flexibility in land size. Thus, there is a mismatch between policy mechanisms emphasising entry at a variety of levels (ranging from food safety-net projects to small and medium-sized farms) and the

actual array of properties available to would-be beneficiaries. In land reform, a 'small project' means 'little money' and, therefore, usually not enough to buy any farms being offered for sale. Unless there are interventions to facilitate the subdivision of agricultural land, the sizes of existing land parcels could drive a continued pattern of large group projects – one problem from the first phase of redistribution that LRAD was intended to address but, instead, has tended to perpetuate. LRAD was based on a presumption of 'the ability of participants to subdivide existing large land units' (MALA 2001: 12), yet a review of the programme in 2003 recognised that this had not happened, and argued that production on small farms (or subdivision of larger farms into smaller units) and less capital-intensive production should be considered:

'There is a widespread tendency among officials to want to create what one official called 'instant successful replicas of white commercial farmers'. This tendency is further re-enforced by the reluctance of officials of the Department of Agriculture to sub-divide farms below what they consider to be the 'viable' size. The programme then often ends up with projects attempting collective commercial farming, or projects where beneficiaries hire a farm manager to run the enterprise.'⁵⁹

In practice, though, little subdivision is taking place. Interviews with provincial offices of the Department indicate that these are very much the exception rather than the norm, and only a handful of examples could be found. In the southern Cape, a few were found, including the Friemersheim project near Groot Brakrivier where a group of livestock owners acquired separate plots on a household basis, which they preferred to group-based ownership and production, given their previous experience of working together on the commonage.

The absence of a strategy to promote subdivision in land reform led to a great irony in the SLAG and LRAD programmes. While applicants were given little choice but to buy whole farms intact without dividing these into smaller units more suited to their needs, agricultural properties *are* being subdivided for the purposes of luxury country living for the wealthy who wish to live in an agricultural setting but have no intention of farming – so-called 'lifestyle farming'. So, poor people accessing land are required to adapt their lives to the demand that the land must be farmed and farmed at scale, while for the rich changes have been allowed in land use and farm sizes.

Even now, under PLAS and the SLLDP, where the state could identify land for acquisition and subdivision prior to allocation, we are not able to determine whether or not this is happening.

There is no economic rationale for restricting the subdivision of agricultural land, yet the seemingly intractable attachment to the notion of 'economic units', laden with ideological and historical baggage, remains a core problem for land and agrarian reform.⁶⁰ The concept of an 'economic unit' still underpins the position of DAFF, evident in officials' apparent refusal to subdivide farms for land reform purposes. To enable intensified land use and production, and improved impacts on livelihoods, it is essential that the Subdivision Act be

removed once and for all. This is a necessary, but by no means sufficient, condition to bring about change in the structure and scale of farming. If land reform is to restructure farming, then a core challenge is to develop mechanisms to promote subdivision and, alongside this, investment in appropriate infrastructure for smallholder as well as other scales of production.

Despite the long-term stated commitment to remove obstacles to subdivision, the Department of Agriculture, Forestry and Fisheries has published a Preservation and Development of Agricultural Land Bill which proposes to introduce provisions to limit subdivision especially of high-potential land, in a manner even more stringent than the original Act 70 of 1970.

Design constraints

Rather than laying the blame at the door of the Department, or its staff and its empty posts, there are other constraints facing land redistribution. These are aptly summarised by land reform guru and Emeritus Professor Lionel Cliffe:

‘One consequence of the South African practice of WBWS is that properties are acquired and transferred one-by-one, and a farm or business plan has to be drawn up for each land transfer. This has proved to be a major bottleneck and has also added greatly to the costs of the programme. This practice in effect militates against the possibilities of smallholder farming. The employment of a separate consultant and drawing up of detailed business plans would hardly be economically justifiable for one smallholding. An analogy with the housing programme would be to require a separate architect to draw up plans for each house, to be commissioned by and possibly paid for by the prospective occupant. If that had been the practice, the country would be even further short of meeting the needs of the homeless. Instead, the country’s housing programme was made possible by whole estates being planned on the basis of one or a very few model structures;; the only way such an ambitious building programme could have been achieved. In the housing context such a one-by-one approach can be seen to be absurd, yet it has been the one followed in land reform and must be rethought if large numbers of ‘disadvantaged’ are to benefit.

This reliance on owners to determine which land will be sold, and the one-by-one process of land transfer, has the further consequence in that it has precluded broader strategic planning of land reform. As a result there is no clear understanding of the ultimate intention of land reform. There could never be a one-formula-fits-all strategy in South Africa as the large commercial farm sector encompasses a range of different types of production units – but not an infinite variety, such as to defy the kind of categorisation that aids planning. The type of agriculture that has resulted from land reform since 1994 is in no sense clear-cut but is whatever the buyers and

their business plan consultants – and subsequent trial and error – have made of it.’

61

Why the South African government never considered a planned approach to land reform, which would target a given area and acquire contiguous farms, subdividing them into smallholdings, is unclear. Policy has repeatedly aimed to support small-scale farmers, but done nothing to create small farms. As a result, ‘small-scale’ has remained code for collective projects on undivided commercial farms. The rising alternative, though, is individual or family-based projects on whole commercial farms – meaning that the available budget for land is being divided among fewer and fewer people.

6. Evidence on the impacts of redistribution on livelihoods of beneficiaries

As much as many researchers acknowledge and agree about the multiple meanings of land to people, and thus the diverse importance and potential impact of land redistribution in South Africa⁶², one of the key, and clearly articulated goals of land reform in the country is the improvement of the livelihoods of the rural poor. Thus, without marginalizing the non-productive uses of land, direct access to land for production, particularly sustainable livelihoods, is, and perhaps should be, a major focus of land redistribution. This is because both public perception, as well as research findings, make a strong link between past racially-based land inequalities and rural poverty, particularly food insecurity, of Black people.⁶³

How has land reform then impacted on the livelihoods of land reform beneficiaries? Available information is neither comprehensive nor agreed on the relevant indicators. The South African literature on land reform suggests that outcomes, or indicators, of success in land reform should include:

- *improved food security*: improved nutritional status from self-provisioning or from increased disposable cash income;
- *more income*: increased amounts and regularity of income from marketed produce and wage employment, and a more egalitarian distribution of income;
- *increased well-being*: improved access to clean drinking water and to sanitation, improved housing, ownership of household items and access to fuel for cooking;
- *reduced vulnerability*: improved access to social infrastructure like schools and clinics, and increased mobility; and
- *improved sustainability*: more sustainable use of the natural resource base.⁶⁴

Quality of Life Surveys

The Quality of Life (QOL) surveys conducted by the DLA have provided some limited insight into the land uses, production patterns and livelihoods of land reform beneficiaries. The QOL surveys were initially envisaged as annual surveys, later as biannual surveys, and have been published in 1998, 2000 and 2003, with a fourth survey in process during 2007 and 2008. The DLA commissioned the QOL surveys to investigate the extent to which the objectives of the land reform programme have been met, and the surveys claim to provide 'an account of the impact of land reform on the livelihoods of land reform beneficiaries'.⁶⁵

The first survey was a small study conducted internally by the DLA's Monitoring and Evaluation Directorate, and published as the 'Annual Quality of Life Report' in October 1998. This survey, conducted in 1997/8, was widely criticised for its limited scope, its questionable theoretical assumptions and its methodology. The authors of the next QOL report note:

An independent assessment of the report concluded that the study was not sufficiently detailed to permit the assessment that was required by DLA. The

assessment also questioned the sampling procedures that were used, and the way in which these were implemented raising the concern that the study may not be representative or sufficiently rigorous for the purposes of monitoring.

The second QOL survey also attempted to assess the impact of reform on livelihoods, though this was shortly after transfer – more than half of the projects studied had been transferred less than a year prior to the survey. The survey found widespread underutilisation of land, in the sense of land not being used at all, and of land that was potentially arable being used for less intensive forms of production: ‘much land remains under-utilised, with neither grazing or cultivation occurring’ and ‘the most common form of productive use is as grazing land’.⁶⁶

The key findings on livelihood strategies from the second survey were that ‘beneficiary households have alarmingly high levels of poverty, with 78% falling below the expenditure poverty line of R476.30 per adult equivalent per month and 47% classed as ultra-poor (less than half the poverty expenditure line)’.⁶⁷ As with the previous QOL survey, this finding would appear to refer to the position of beneficiaries *at the time they joined the project*, rather than as a result of land reform, given that most projects surveyed were still at the inception stage. Nevertheless, it did confirm substantial variation in beneficiaries’ livelihood sources and strategies and, on aggregate, very low incomes.

The key findings of the second QOL survey on the livelihoods of land reform beneficiaries were that:

- *63% of beneficiary households receive some form of waged income;*
- *just under 20% of beneficiary households receive an income from both agricultural production and self-employment activities;*
- *only 8% of households acknowledged transfer payments, though this low figure is probably related to the virtual absence of migrant household members in the sample; and*
- *38% of households were deriving income either from the sale or own consumption of agriculture and livestock, while 62% were not deriving income at all, indicating that livelihood impacts may be very unequal across households, even within the same project; and*
- *the average household income from agricultural activities for the total sample was R1 146.00 per annum.*⁶⁸

The most common land uses were the extension of existing livestock herds and maize production for household consumption – two important inputs into the livelihoods of poor and vulnerable households. Most production on redistributed land was considered to be for ‘subsistence’, and the survey found that, among those cultivating, most were both buying inputs and selling at least some of their produce, usually in very local markets, as is the norm for ‘subsistence’ producers in South Africa. The study found that land reform beneficiaries were better off than the rural population on average, but failed to demonstrate whether or

not this was as a result of their improved access to land, or whether this was due to those who were better off being more likely to be able to access the programme.

The third QOL survey, conducted in 2002 and reported in 2003, encountered serious problems and discontinuities with previous surveys. It differed from its predecessors in terms of its sample, the design of the research instruments and analysis of the data. This report was never officially released. Despite (or perhaps due to) the methodological problems encountered, it provided important recommendations for future impact analysis, as follows:

- 'The DLA needs to integrate the collection of baseline household level information into its project cycles so that information on the quality of life of beneficiaries prior to the transfer of land is recorded. This is a basis for monitoring and evaluation. This will require improving the Landbase data system of M&E and capturing more extensive beneficiary and project information during the project approval stage.
- The DLA should produce QOL reports on an annual basis, using a standard set of survey instruments to reflect the impact of land reform over time. The reports should be extended to assessing the resources committed to the delivery of land reform, including staff capacity, capital and operating budgets, and contributions from other government departments, parastatal and local government institutions.
- *The QOL survey should be extended to include a control group of rural households and communities that have not benefited from land reform. This will enable future reports to compare improvements in the quality of life of land reform participants to other rural populations.'* (DLA 2003 xxxii)

The QOL studies have shown that those in the programme are better off than the rural population as a whole, but are they better off because they are land reform beneficiaries or did they manage to become land reform beneficiaries because they are better off? Those who are richer are more likely to have cattle, but are they richer because they have cattle or do they have cattle because they are richer? As observed in the Free State, those who are best placed to participate in the land reform programme, and predominated in an early study of land reform, were those who were literate, had their own disposable resources with which to pursue their applications, and had access to telecommunications, to transport, to officialdom and to social and political networks.⁶⁹ Redistribution policy, unlike restitution policy, is based on the presumption that the presence of an 'own contribution' can have a positive impact on projects, as a sign of commitment, but this proposition has not been empirically tested.

In the absence of baseline data (a profile of people entering the programme), subsequent surveys can provide a snapshot of people's livelihoods, but cannot explain how these have changed as a result of land reform. In addition to the 'before' and 'after' dimension, few if any studies have attempted to disentangle or even adequately conceptualise on-project

livelihoods in relation to people's overall livelihood strategies (how land reform is one input into wider livelihood strategies) or to theorise the relationship between the two. As a result, impact studies, which would investigate changes over time and determine whether these can be attributed to land reform, have not been possible.

In summary, there remain both *technical and conceptual challenges* in determining livelihood impacts within the context of South Africa's land reform programme. Existing data from the QOL studies on the livelihoods of land reform beneficiaries demonstrate important correlations, but on the whole fail to demonstrate causal relations that tell us something about the impact of land reform in improving people's livelihoods and lifting them out of poverty.

An audit of land redistribution (LRAD) projects in the North West province by Johann Kirsten and Charles Machethe in 2005 is another source of information on production patterns and livelihood outcomes in land reform. It suggests that project failure can be ascribed largely not to operational problems but to inappropriate planning and contextual factors. This review commissioned by the national DoA assessed 'the extent to which land reform projects are not meeting the agrarian reform objectives of *commercial viability*'.⁷⁰ Its key findings were that, of all the land reform projects in that province:

- one-third were locked in intractable conflict and, as a result, the majority of their members had lost interest in the project and had de facto exited;
- 55% of projects had no implements for production and 27% had inadequate implements; and
- more than a quarter of projects had not produced anything since taking ownership of their land.

Business plans were in no way a reliable predictor of actual land use in projects. In just 11% of cases did beneficiaries report that they had drawn up their own business plan; in the bulk of cases, it was a private service provider (consultant) or an official from the DoA who drew it up.⁷¹ In half of the projects, leaders were aware of the contents of their business plans but only a minority had access to a copy of the business plan on the farm itself, and only 35% of projects reported that they were following the original business plan. The most striking finding of this study is that the more successful projects were *less likely* to be following the original business plan than those that were less successful. Among those considered successful, 60% were making up their own plan as they went along, and ignoring the paid-for plan, compared to 42% in the sample as a whole.

The findings of the study draw into question the quality and appropriateness of the type of business plans that form the basis for project approval, since these are widely ignored and, even where they are implemented, correlate negatively with project success. The study found a direct relationship between provision of aftercare support and levels of production – yet nearly three-quarters of business plans did not make any provision for, or indicate the need for, aftercare to be provided. Fewer than half of the projects reported that the DoA

had provided advice to them, and just 5% indicated that they received support from the department.

Two wider points merit attention. First, the emphasis in both the QOL and the North West studies (among others) on marketing of produce, and profits, obscures the *non-monetised* benefits that may have accrued to project members. This raises the possibility that the contribution of land reform to livelihoods may have been *underestimated* in some of these studies – including where projects may be producing benefits for members, but have ostensibly ‘failed’ in the sense that they have not realised the objectives of business plans.

Second, the reasons attributed to the underuse of land and non-operational projects have focused on failures of the project members themselves (such as conflict, lack of skills and poor management) and the absence or inadequacy of support from government institutions, most notably the DoA (such as lack of aftercare, training and extension advice). However, the studies do not question the business plans themselves, but take as given that adherence to business plans is the optimal outcome, even though, as shown in the North West study, there may in fact be a negative correlation between the two.

A further issue that merits attention is the wider economic context in which production takes place. The issue of under-utilisation of redistributed land has been framed, in the public imagination and in the few review reports that have been written, predominantly as a problem of production. This has fuelled (sometimes racially) caricatured notions of the limitations of poor black people as custodians of the land.⁷² However, concerns about underuse of redistributed land are widely shared across the political spectrum. Among official reviews, the dominant reason put forward for the failure to produce is the lack of skills, in both cultivation and management, thus laying the blame squarely on beneficiaries themselves, rather than on two other possible causes – the inappropriateness of planned land uses, and a hostile policy and economic environment.⁷³

With regards to PLAS, operational since 2006, and the SLLDP since 2013, we are not aware of any reviews or surveys to assess the impacts of these programmes on the quality of life of beneficiaries. We do, though, present summary findings from our own study underway in the Eastern Cape since 2014, in some of the sections that follow.

Conclusion

Despite the gloomy picture about the success of land redistribution that has been painted by research, which is fairly accurate, especially about the slow pace of the programme and its limited impacts on various aspects of poor people’s livelihoods, it is clear that land redistribution does have make a difference, albeit small, to beneficiaries. Even though there are no clear, and direct, socio-economic transformations that can be linked to land redistribution, and indeed measured, there is no denying that the symbolic aspects of land redistribution likely yield positive impact on poor people’s livelihoods.⁷⁴ Finally, with agriculture being the dominant land use practice being promoted by government in most land redistribution projects, the process of discovering alternative land uses has been slow,

making it difficult to know what kind of structural changes are needed in production, markets and settlement patterns.⁷⁵

7. Strategic partnerships and joint ventures

Strategic Partnerships and Joint Ventures

It can be argued that the idea of strategic partnerships and joint ventures as part of land reform originate from the restitution program. The restoration to claimant communities of highly developed commercial farms presented a dilemma of the state, and broader concerns for other sectors of society (e.g. the business community). The main concern was the likely negative impact on food production, the country's export economy, downstream and upstream related economic activities, and on employment, should the farms fail to keep the same level of production. Limpopo Province was the most affected, as almost 50% of commercial agricultural land, which produced a substantial amount of fruit, vegetables and nuts, was under claim.⁷⁶ Therefore, since 2005 strategic partnerships and joint ventures have been closely intertwined with high value agricultural land. It is not surprising that most of the lessons available about strategic partnerships and joint ventures in land reform come from land restitution, rather than land redistribution.⁷⁷

Since strategic partnerships and joint ventures have also gained traction in land redistribution projects, the motivation behind their implementation is becoming clearer, and includes the following, among other things already mentioned under restitution,:

- Land redistribution has been dogged by a history of poorly, if at all, used land, as well as farms becoming derelict only a few years after land has been transferred to black beneficiaries;
- There is pressure for the state to show that land redistribution not only meets political goals (e.g. undoing injustices of the past), but that it can meet land reform's economic goals of improving the welfare of the beneficiaries;
- With the millions of Rands that the state is investing in land redistribution, particularly through RECAP funding that is now tied to the latest land redistribution strategy (PLAS), it is important for the state to justify this spending, by increasing chances of high productivity of land given to beneficiaries. In fact, it is now a condition of receiving RECAP funding that beneficiaries either have a strategic partner or a mentor.
- One of the most commonly cited challenges facing the entire land reform program has been the state's limited capacity to implement it. Specifically, for various reasons, and despite good efforts and strong improvements over the last two decades, state officials have limited capacity for providing technical and management support to beneficiaries on commercial agricultural land;⁷⁸
- The continuing and dominant perception among state actors and other members of the public is that large-scale, highly productive commercial agriculture should be the ultimate goal of farming, and that smallholder farming does not represent ultimate success. Strategic partnerships and joint ventures are therefore part of the strategy towards this ultimate goal.⁷⁹
- Related to the point above, the resistance on the part of the state to any subdivision of existing agricultural land has meant that land available for redistribution is in large economic units that in keeping with this particular legislation, should be kept

intact and used for commercial purposes.⁸⁰ Again, strategic partnerships and joint ventures are seen as a need fulfil this goal, especially given that very few land reform beneficiaries have any substantial experience operating large-scale agricultural enterprises, at least at management level.

Policy and implementation of strategic partnerships and joint ventures

In spite of the state promoting strategic partnerships and joint ventures as being central to land restitution and land redistribution programs meeting their economic goals, there is a lack of policy detail on how these should operate and be monitored. Far from being coherent in terms of policy and implementation, as well as monitoring by the state, strategic partnerships and joint ventures appear to be work under construction. Perhaps the closest articulation of their operation by government came via a question in 2011, by an ANC MP, where the Minister of Rural Development and Land Reform provided an answer.⁸¹ The MP's question was asking about the criteria used to identify strategic partners and service providers for emerging farmers, as well as what the monitoring mechanism in place to ensure that these partners and service providers meet the department's goals of assisting emerging farmers. In Minister Nkwinti's response, the following steps for selection and implementation were laid out:

- Projects Identification
- Engagement with the beneficiaries
- Identification and discussion of the possible interventions with the beneficiaries
- Recruitment and Appointment of the partners for identified projects through the tender process
- Development of Comprehensive intervention plan or Business Plan
- Presentation and endorsement of the proposed Business Plan
- Signing of the contracts
- Creating a legal entity for the project to management funds
- Release of grants
- Implementation of the proposed plan
- Monitoring and evaluation

The strategic partners are encouraged to invest their resources and prepare business plans which form a basic guiding tool to measure profit of the enterprise (DRDLR, 2011, 5).⁸² The Minister added that there might be some cases where the beneficiaries will have their Strategic Partners. In that case the department would have to formalize the relationship and align it with Recapitalization and Development policy. On how the department would establish whether strategic partners are meeting the goals of the land redistribution program, the Minister explained that there are two strategies in place to monitor progress. The first one was that the DRDLR Strategic Land Intervention has appointed two audit companies, who have agricultural expertise and legal background, to monitor and evaluate the performance of all projects receiving RECAP funding. The second strategy mentioned was that the Recapitalization and Development team, projects officers, and the Department of Agriculture officials do farm inspections and visits to support the appointed project

management unit. It is however unclear how project officers work hand in hand with the appointed private sector audit company. Also, it is unclear what exactly is being evaluated (the relationship between the strategic partners and the beneficiaries or the level of 'success' in the productivity of the business?), how detailed the evaluations are in terms of time invested and the individual issues being investigated?, and what is done with the outcomes, especially if some problems are identified? Additionally, it is not clear what experiences have emerged about the success and the challenges of strategic partnerships and joint ventures on the ground. Also, it is not clear what expertise the different government officials have on the different aspects of the different aspects being evaluated. As it is discussed below, some of the lessons emerging about strategic partners in both land restitution and land redistribution come from independent studies.

Impact on Beneficiaries: Benefits and Challenges

Derman, Lahiff and Sjaastad, writing mainly about strategic partnerships and joint ventures in land restitution projects in Limpopo, identify possible benefits and challenges of these relationships.⁸³ With the exception of a few issues, such as relatively clearer land tenure rights in successful land claims, these findings are easily applicable to land redistribution projects. Thus, some of the possible benefits for land redistribution beneficiaries include, first, getting rental income for land in cases where the beneficiaries hold the title to the land (the exception here being the PLAS, where the state remains the owner of the land). To gain equity in the partnership, a strategic partner has to pay rent on the land. Second, beneficiaries are entitled to a share of profits with the strategic partner. Third, in theory, beneficiaries receive training in different aspects of the business. Fourth, on paper, beneficiaries receive preference when employment opportunities arise. Finally, again with the exception of PLAS, beneficiaries remain owners of the land.

Derman, Lahiff and Sjaastad also list a number of issues that could be seen as challenges facing the government's promotion of strategic partnerships in land reform projects. These include:

- Beneficiaries potentially being patronized – here the assumption held by government and strategic partners is that land reform beneficiaries lack skills to successfully manage a farming operation, and that the strategic partners have all the knowledge. While this may be true in some cases, it is the wrong premise to start a relationship between partners.
- Inequalities in information distribution and power – beneficiaries are often marginalized in high level decision making processes, including capital investments and marketing.
- The possibility that the profit shares going to the beneficiaries are seen as some form of tax by the strategic partner. Therefore the strategic partner might not have immediate incentive to maximize profit.
- While strategic partners are obliged to share profits with beneficiaries from on-farm production, there is no such agreement for other parts of the value chain. Strategic partners can easily transfer value to their companies that are outside of the

partnership with the communities. As Hall and Kepe show, this is happening in some of the PLAS projects with strategic partners.⁸⁴

- Strategic partners can rent out equipment needed for production on the farms, thus making extra profit on the side that is not shared with beneficiaries.
- Strategic partners with interests in the processing industry could manipulate farming activities (e.g harvesting schedules; favouring inputs that their companies provide) to benefit their other interests.
- In some cases strategic partners get a management fee for their expertise, usually based on turnover percentage. It has been found that strategic partners could increase turnover just to get higher management fee.
- While beneficiaries may gain employment, this could be limited to menial jobs, thus excluding senior management positions.
- Loss of jobs, or the employment of only a small section of the beneficiary population, may result in tensions among beneficiaries with jobs and those without.
- Strategic partnerships tend to concentrate on the continuation of existing farming operations, or at least one single enterprise, thus paying little or no attention other to possible land uses that the beneficiaries maybe interested in.

To further summarize the benefits and challenges of strategic partnerships and joint ventures, we use an adapted version of Lahiff, Davis and Manenzhe's table that compares the South African strategic partnership model with widely accepted standard criteria for inclusiveness in these arrangements.⁸⁵ Whereas their example draws from land restitution, we draw from land redistribution, particularly the PLAS.

**Table 3. Strategic partnerships in land redistribution as a form of inclusive business model
(adapted from Lahiff et al, 2012)**

Criteria	Vermeulen & Cotula ⁸⁶ description	South African Model	Comments
Ownership	Ownership of the business (equity shares) and of key project assets such as land and processing facilities.	While in some cases beneficiaries do own the assets (e.g. land), in the latest redistribution strategy (PLAS) they have no ownership rights. The state is the owner of the land.	In the absence of clear land ownership rights, the control of land is effectively ceded to the strategic partner for the duration of the agreement, on behalf of the state.
Voice	Ability to influence key business decisions, including weight in decision-making, arrangements for review and grievance, and mechanisms for	Elected representatives of the beneficiaries are represented in the board/trust, but day-to-day decision making rests exclusively with the strategic	Members of the board/trust who are beneficiaries do not always have much say in day to day decisions about the enterprise management; nor do they control finances.

	dealing with asymmetries in information access.	partner;	
Risk	Including commercial (i.e. production, supply and market) risk, but also wider risks such as political and reputational risks.	Direct financial risk lies largely with the strategic partner and with the state as providers of grants. Beneficiaries are exposed to opportunity costs in terms of time, land use and use of grants. A collapse of an enterprise is likely to leave communities with internal tensions, and loss of livelihoods (e.g. employment). The state stands to lose financial investment and reputation if projects fail.	Potential blame game between the state, strategic partners and the community.
Reward	The sharing of economic costs and benefits, including price setting and finance arrangements.	On paper, communities appear to benefit from a share of profits, employment opportunities and training opportunities. Strategic partners would benefit from share of profits, management fees and exclusive control of upstream and downstream opportunities.	Examples thus far show limited dividends for land redistribution beneficiaries. Many beneficiaries simply earn modest wages as workers in the project rather than as partners.

Conclusion

Despite the obvious need to provide support to beneficiaries of land reform, particularly redistribution, it is clear that the current situation is far from adequate and sustainable. Rather than providing lessons for duplication in other projects, studies appear to be mainly raising cautionary notes about strategic partnerships. Perhaps the biggest cautionary notes are, first, how inclusive of beneficiaries is the partnership arrangement? The idea here is that a more inclusive model will give the beneficiaries a bigger voice about their own needs in terms of land use and other livelihood concerns. Second, should strategic partnerships be more encompassing or should they be drawn to deal with particular aspects of the operation? Clearly, as Lahiff, Davis and Manenzhe point out, there are dangers when strategic partners take over all operations on a project, even those they are not

specialists/or competent on.⁸⁷ Third, should the state play a bigger, more rigorous role in vetting/selecting potential partners; providing legal and other institutional support for beneficiaries; and ensuring that there are clear criteria for success for strategic partners? This last question is important because in the end the state is responsible for land reform, and has a vested interest to see it meet its goals, politically and economically.

8. Recapitalisation and Development Programme

The Recapitalisation and Development Programme ('Recap') was initiated in 2010 as a means to fix failing land reform projects. Recap 'seeks to provide black farmers with the social and economic infrastructure and basic resources required to run successful businesses'.⁸⁸ Two policies have been adopted. The first, in 2010, followed an internal review that identified over 500 'collapsed' farms where intervention was needed to fix failed projects. With the abandonment of LRAD, and the emergence of PLAS as the only means of land redistribution, Recap emerged as the mechanism used by the Department to provide on-farm support more generally – including to projects in the start-up phase. The idea of 'fixing' farms informed the Recap approach, which was to require a business plan setting out plans for infrastructure investment and operating costs, which the state would fund to 100% in the first year, 80% in the second year, 60% in the third year, 40% in the fourth year, 20% in the fifth year – after which state funding would be terminated. To inform and oversee the implementation of the business plan, a strategic partner or mentor needed to be confirmed as part of the project.

The second Recap policy, in 2013, confirmed the broad approach, setting out mentorship, co-management, equity sharing arrangements and contract farming or concessions as being the four strategies for its implementation.⁸⁹ To access Recap funds, then, beneficiaries of land redistribution need to enter into one of these partnerships with private sector actors.

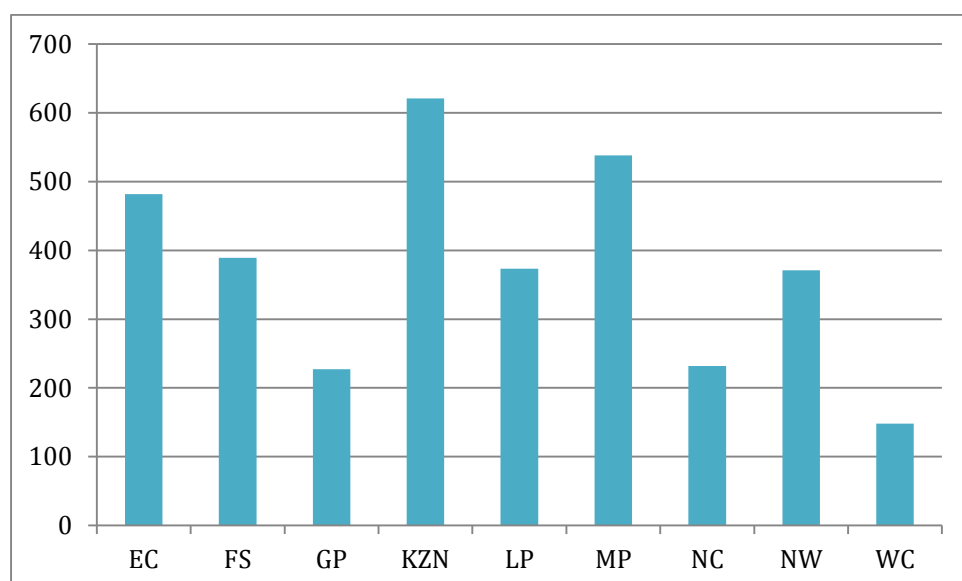
Two main sources of evidence on Recap are a report commissioned by the DPME and parliamentary hearings held on 4-5 February 2015. These provide partial answers to the key questions about Recap: is it well designed, is it cost effective and who is benefitting the most?

Table 4: Recapitalisation and Development Programme expenditure (2009 – Jan 2015)

	2009 to 2012	2012/13	2013/14	April 2014 to 22 Jan 2015	Grand Total
EC	90,838,551	149,510,203	209,192,627	32,432,211	481,973,592
FS	129,174,115	155,301,914	103,366,191	1,277,286	389,119,506
GP	30,891,762	91,519,211	83,900,508	20,985,852	227,297,333
KZN	146,444,743	137,848,568	269,562,216	67,146,308	621,001,835
LP	108,226,016	157,231,772	79,260,550	28,837,178	373,555,516
MP	158,868,381	249,945,241	113,923,035	15,602,888	538,339,545
NC	62,011,362	79,269,857	59,747,525	30,995,997	232,024,741
NW	208,765,773	107,120,161	10,686,828	44,570,941	371,143,703
WC	60,158,331	23,281,196	52,188,292	12,370,257	147,998,076
Total	995,379,034	1,151,028,123	981,827,772	254,218,918	3,382,453,847

Source: DRDLR 2015: 13 (with authors' corrections for addition in columns four and five).⁹⁰

Figure 10: Recap expenditure from inception in 2009 to 22 January 2015 (in million Rands)



Source: DRDLR 2015: 13 (authors' own calculations)

The distribution of Recap expenditure across provinces is clearly highly unequal and provincial variations do not reflect overall spending on land acquisitions in these provinces.

Bear in mind that the Recap expenditure discussed above is split between redistribution and restitution projects. Table 4 below shows the farms redistributed and restored in the first five years of Recap, compared to those under Recap.

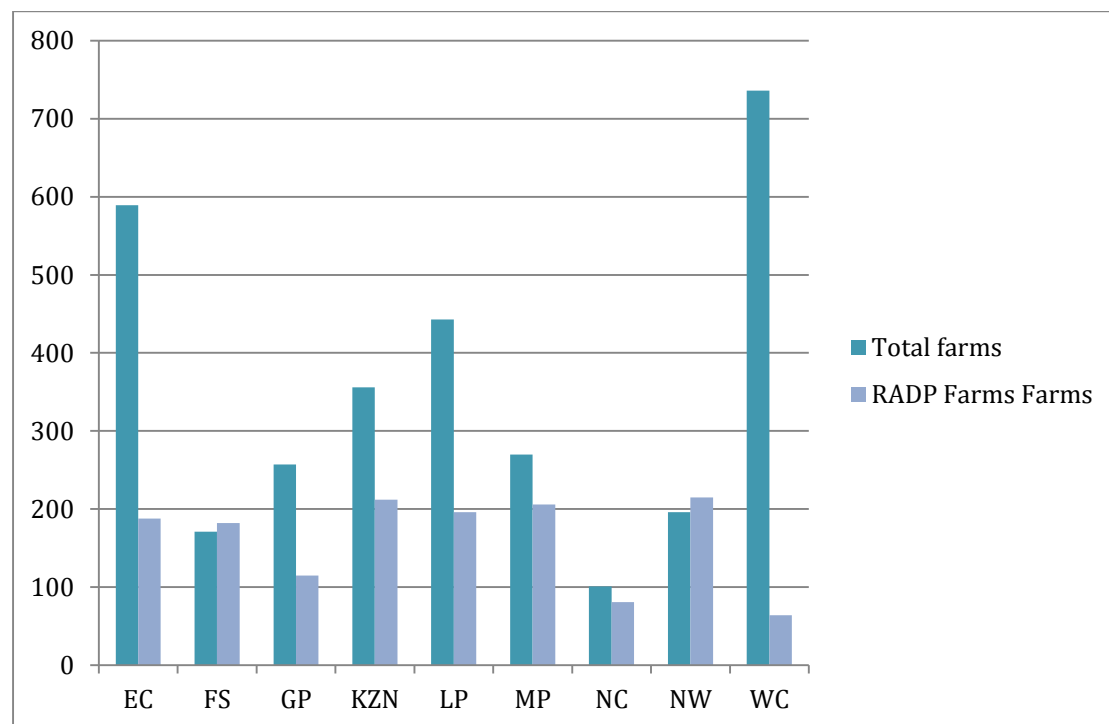
Table 5: Number of farm redistributed and restored vs. number of farms under Recap, 2009 to March 2014

	Redistributed		Restored (Restitution)		RADP Farms	
	Farms	Hectares	Farms	Hectares	Farms	Hectares
EC	211	193,355	378	35,070	188	111,591
FS	154	114,858	17	6,870	182	134,587
GP	95	16,050	162	7,629	115	19,916
KZN	244	136,805	112	135,068	212	131,619
LP	139	56,086	304	106,696	196	79,143
MP	183	144,507	87	99,133	206	165,726
NC	80	449,174	21	62,932	81	464,914
NW	164	129,164	32	122,240	215	225,571
WC	49	34,641	687	128	64	47,714
Total	1,319	1,274,639	1,800	575,766	1,459	1,380,781

Source: DRDLR 2015 (with update for 2015/16)

However, Table 4 above, which the Department presented to Parliament during the hearings on Recap, is misleading. Many (an unknown number) of the farms receiving RADP funds were those acquired and/or transferred *prior* to the inception of the Recap programme in 2010. For this reason, one should not assume that the 'RADP Farms' listed are among those acquired since 2009, especially as 504 existing projects were earmarked for Recap at its inception. This means that possibly half (or more than half) of all farms acquired in the past seven years have received no support.

Figure 11: Number of farms redistributed and restored through restitution vs number of farms under Recap (2009 to March 2014)



Source: DRDLR 2015: 12 (authors' own calculations)

Figure 11 above shows that many projects being approved are not getting Recap. In reality, the extent to which 'new' projects' get projects is likely lower than shown here, since some of the 'Recap' farms are those transferred prior to 2009, and therefore those shown in the right-hand column are not necessarily among those in the left-hand column. This is why, for instance in the Free State and North West, more farms are under Recap during this period than were transferred during the same period – they include older projects. The anomaly of the Western Cape may be partially explained by the restoration not of whole farms but of small properties, possibly smallholdings or even urban residential land; at the same time, it is also clear that more money is being spent in KwaZulu-Natal, Mpumalanga and the Eastern Cape, and least in the Western Cape, Gauteng and Northern Cape.

The official data suggest an aggregate cost to the fiscus of R558,668 per job created. Further information is needed concerning how 'jobs created' is defined, how this accounts for self-

employment as opposed to waged employment, and whether this is offset against job losses.

Our findings from research in the Eastern Cape reveal an interesting, yet confusing relationship between Recap and land tenure rights of the beneficiaries. These relationships are confusing because they are not clearly articulated in Recap policy, but appear to be what is being implemented by officials on the ground, albeit not uniformly. First, a long-term lease is seen as a requirement for obtaining Recap funding. Many of the beneficiaries in our study have been waiting for years to get Recap funding because their lease has not been finalized. Second, there are cases where a lease is either delayed or refused because the beneficiaries are not (immediately) applying for Recap. In other words the intention, and indeed the process, of applying for Recap appears to leverage a speedy resolution of a long-term lease process. This has particularly been the case in projects that either have mentors or strategic partners in our sample. Therefore, while some depend on a promise of Recap funding to get a long-term lease, others are waiting for a long-term lease to even trigger an application for Recap. It all depends on what the project officers working with them say.

The review of Recap commissioned by the Department of Performance Monitoring and Evaluation and conducted by the University of Pretoria in 2013 found both strengths and weaknesses. Its overall finding, though, was that 'Recap is not appropriately design to achieve its intended objectives'.⁹¹ It found that more than R463,000 was spent per beneficiary and it cost more than R588,000 to create each job. These figures were far higher in the Free State than elsewhere. Based on these and other findings, it concluded that Recap is inappropriately designed and poorly implemented, and that it does not constitute effective use of available resources or value for money. The review provided recommendations for strengthening Recap, as required by its terms of reference, but the authors noted that:

'In our view, the best and lasting solution would entail a redesign and overhaul of all public agricultural support programmes and doing away with existing silos of funding agricultural support services, including post-settlement support.'⁹²

The Parliamentary hearings held by the Portfolio Committee on Rural Development and Land Reform on 4-5 February 2015 heard diverse and contradictory versions of how this programme is going and who is benefiting. Among the main challenges observed by the committee in its report were:

- (a) Coordination between the DAFF and DRDLR
- (b) Selection of beneficiaries and farms
- (c) Programme design
- (d) Lack of policy synergies between programmes of the DAFF and DRDLR.
- (e) Lack of targeting support for both redistribution and restitution
- (f) RADP was also hamstrung by administrative challenges
- (g) The sustainability of the funding model

- (h) Integration in value-chains
- (i) Weak monitoring and evaluation
- (j) Exit strategy and business sustainability⁹³

Parliament made the following recommendations on the basis of the evidence presented to it and the deliberations of its portfolio committee:

- (a) Endorsed the recommendation by the DPME evaluation of RADP to redesign and overhaul all public agricultural support programs
- (b) DRDLR to finalise the review of the RADP
- (c) Finalize the Integrated Funding Model for agricultural support for implementation, within three months of adoption of this report
- (d) The Minister of Rural Development and Land Reform must ensure that, within three months after adoption of this report by the House,
 - (i) Differentiated farmer support programme which takes into consideration differential needs of various categories of farmers, from small-scale subsistence to large-scale commercial farmers.
 - (ii) There are clear Service Level Agreements (SLAs), in languages that beneficiaries understand, that binds a tripartite cooperation among government, strategic partners and farmers.
 - (iii) Enhanced monitoring and Evaluation of RADP, in particular implementation of business plans, contracts and SLAs.
 - (iv) There is equitable distribution of recapitalisation and development funding for both redistribution and restitution programmes.
 - (v) A revised RADP policy that to address findings and recommendations of the DPME report must further be presented before the Portfolio Committee on Rural Development and Land Reform jointly with Portfolio Committee on Agriculture, Forestry and Fisheries within three months after adoption of this report by the House.
 - (vi) A progress report on the investigations of allegations of fraud and corruption in the DRDLR, especially relating to the Recapitalisation and Development Fund, be submitted to the portfolio Committee.
- (e) Joint quarterly progress reports to Parliament 'within three months after adoption of this report by the House'.⁹⁴

We were not able to ascertain whether or not these recommendations by Parliament were actioned by the Minister and Departments responsible.

9. Implications of state leasehold as a tenure model

As discussed earlier, under the Proactive Land Acquisition Strategy, the state has adapted the willing buyer, willing seller approach; but now the state has itself become the purchaser of land, acquiring land for redistribution to beneficiaries without transfer of title. State leasehold has replaced the original private ownership model. But with what consequences? And to what degree has this significant change helped to remedy the many problems of the initial programme or produced new problems?

The state leasehold model has been implemented in a variety of ways in different parts of the country, guided by a Proactive Land Acquisition Strategy (PLAS), which empowers state officials to buy farms on the open market and allocate them to selected beneficiaries (DLA 2006). This was initially for a three-year test period after which title would be transferred to 'emergent farmers' who had proven themselves to be successful. However, after widespread non-payment of rent, the promise of eventual title has been abandoned. From 2011, state land purchase and leasing has come to constitute the entirety of land redistribution, as grant-based purchase was discontinued. The state leasehold model has since been amended through the State Land Lease and Disposal Policy (SLLDP) of 2013 that established a principle that black farming households and communities may obtain 30 year leases, renewable for a further 20 years, before the state will consider transferring ownership to them (DRDLR 2013a). To qualify for on-farm infrastructure and production support, under a Recapitalisation and Development Programme, 'beneficiaries' are required to enter into a partnership with a 'strategic partner' – ie. a farming or agribusiness company – in a mentorship or joint venture arrangement.

No beneficiaries had current documented land rights

Although policy emphasises the need for tenure security, and aims to achieve this through the provision of long-term leases, we found that beneficiaries did not have leases in any of our case study projects. The only two valid leases among the sample were concluded between government and strategic partners (ie. agribusiness companies), not the ostensible 'beneficiaries'. The inability of beneficiaries to pay rent to the state has led officials to institute a practice of issuing 'caretakership' agreements (mostly lapsed) in order to absolve beneficiaries of a need to pay for their land. Under such agreements, rather than being rights-holders, they are given a duty to look after state property for a limited period, normally three months, with the state being able to give them 30 days' notice to vacate the property. In one case, a family was granted permission to occupy a state farm (without a lease), and asked by the DRDLR to deliver an informal eviction notice to those already occupying it. This is possibly the opposite of the vision of secure long-term rights for black South Africans which was at the core of land reform as envisaged in the 1990s; it was to end the situation of precarious tenure that colonial and apartheid governments entrenched.

Situations in which people either have no documented rights, or have caretakerships or expired leases produce high degrees of uncertainty, leading people to avoid investment in

land use, production or maintenance of infrastructure. This means that 'beneficiaries' have little or no tenure security. In a twist of Orwellian irony, the 'beneficiaries' may not benefit at all, but are allowed to be temporary squatters on land over which they have no rights.

The following case from our research in the Eastern Cape illustrates the point: **'Good Earth is a 299ha farm just off the national N2 road between Port Elizabeth and Grahamstown. Contrary to its name, it is a bush-encroached farm without any of the essential infrastructure for grazing cattle. The Department bought the farm¹ and allocated it to a family but, in 2012, re-allocated it to a man from Uitenhage and his extended family. This family had for years kept their cattle on the Uitenhage commonage about 45km away, and was desperate for their own farm, following bad losses of cattle to theft and motor accidents on and around the unfenced commonage. From 2004 they had been putting in applications to the department, without luck, but in 2012 were told that they could occupy Good Earth for six months if they delivered a letter to the current resident instructing him to vacate. This informal eviction process went ahead, and the Uitenhage family moved their 127 livestock onto the farm. There is a derelict house on the farm, no running water and no electricity, and so the family commuted to their farm, once or twice a week, to check on their cattle – a considerable cost to them made possible only by incomes of two pensions and one salaried job among the extended family of four brothers, their wives and adult children and their elderly father and mother. There is also no internal fencing and, having lost a further 20 cattle on the farm, the family negotiated access to grazing on neighbouring white farmers' land. Following our interventions in 2013 and 2014, they were offered an alternative farm closer to where they live in Uitenhage, with better grazing and fencing. But they were not allowed to see the farm prior to its purchase, and afterwards were told that they would be sharing the farm with another farmer. They moved their livestock across in early 2015 and, with help from officials, negotiated an informal subdivision of the farm with the other farmer. This entailed them getting the larger area of land for their more numerous livestock, while the other farmer and his family would occupy the main farmhouse and a smaller portion. Since then, conflicts have emerged over which land each family is to use, and their shares of a large arable field with centre-pivot irrigation. More than a year later, both families were uncertain about their futures on the farm; while it provided them with ample land for their needs, neither had a lease nor was clear whether they would ever get documented permission to occupy the land. Neither was willing to invest in fixed improvements in support of their farming operations under these conditions.'**

In addition to the situation of chronic tenure insecurity, there are widespread and inaccurate expectations among beneficiaries that they will become owners of the land they occupy and use. The adoption of the State Land Lease and Disposal Policy in July 2013 – which extends the period of leasehold prior to ownership to 50 years – was not communicated to any of the projects in our sample until we distributed copies of the policy and explained it.

¹ We were not able to confirm when this purchase took place.

This unpublicised about-turn in policy suggests political risk in the future as large numbers of people around the country discover that their expectations of gaining ownership of the land they now occupy will not be met. Our findings suggest a need either to revisit the state's policy of retaining ownership and managing state land leases, or to implement profound changes in the system of state land administration to ensure that people occupying state land acquire secure rights and are able to build their livelihoods on this land.

The absence of secure land rights impedes production support

The lack of clarity about the status of beneficiaries' tenure has practical implications. Other state institutions refuse to deliver services or invest in their land uses. People are not able to access credit as financial institutions require some proof of their right to occupy. As a result, emerging commercial farmers, including those who have capital from other sources, are being stymied in their farming operations. This is due to an inability to secure loans and other sources of support, and to make on-farm improvements, because they do not have valid leases. Further, we discovered cases where beneficiaries who were making improvements to their infrastructure – fixing a shed roof, renovating farm worker housing, or putting up fences – were told by DRDLR officials to cease such fixed improvements on government property. Without rights, access to land does not translate into opportunities for development.

*The following case from our research in the Eastern Cape illustrates the point: **Malangskraal**, a sprawling 5,200ha farm on the border between Sarah Baartman and Amathole districts, 10km south of Bedford on the Grahamstown road, was once a thriving stud farm, with sheep, goats and cattle. The Department bought the farm from its white owner, who moved to Grahamstown to focus on his butchery business in the town. Three of the farm worker families remained on the farm, now without jobs, and in 2011 the Department allocated the farm to a family from Alice, 90km away. The family had substantial herds of cattle, sheep and goats on the Alice commonage and had managed, through personal connections, to bring their application to the attention of the provincial authorities in the department. A family representative, a policeman at the time, signed a caretakership agreement for one year. He explained the terms of the agreement with the Department as follows: 'I could bring my livestock and during that time I would not have any support. They said I would be tested during that period. There was no rent and no payment.' The family nearly lost the farm when, some time after the caretakership had expired, they were served with a notice to vacate the property within 30 days. Having contested this, the family representative was told he could stay until another farm had been found for him, though this never happened. Instead, in 2014 he was told to move out of the main farmhouse and settle in another house on the farm, as the farm would be subdivided into three. He had brought with him two employees to work on the farm and did not employ the remaining farm workers, but allowed them to stay. Later, conflicts arose as the Department allocated part of the farm to one of the farm workers, who suddenly acquired a large number of cattle, rumoured to belong to the former white owner who was, via him, retaining access to the land he had already sold to government, and allegedly running cattle there to supply his butchery. By 2015, the farm had been informally subdivided in three, between the family trust, the former farm worker, and*

another man who was a veteran of Umkhonto we Sizwe (MK)². As of 2016, five years after the initial allocation, none of the three has a lease and continue to farm without state support and with intermittent conflicts among them due to the contested and informal nature of the subdivision. As the representative of the family trust said, 'I will be glad if I can get a lease now, because now I am not sure if I will stay here or not, because there is nothing on paper that says I can stay here.' The absence of a lease also means he cannot access credit to expand his operations: 'I went to the Land Bank, but it is for the commercial farmers, not for us. They showed me the paperwork they have there; they want us to pay the installments and I knew I could not pay that. If I get the lease, I might have to pay [rent], but at least I could get a loan.'

Farm workers face increased tenure insecurity and livelihood uncertainty

The proactive purchase model means that, from the moment of transfer, when farms become state property, all commercial operations cease, with profound impacts on farm workers – who are usually also resident on farm. When government buys farms, farm workers lose their jobs and often their only sources of cash income. In contrast, the (usually white) farm owners who sell to the state are paid out in full and can create alternative livelihoods elsewhere. Farm workers – without their own capital to invest, and without leases or any recognised rights to the land – are therefore insulated from development opportunities. Some former farm workers who continue to live on the farms expressed feelings of deep insecurity, now that they are not employees of private farmers, but undocumented occupiers of state-owned land. Special consideration may be needed to treat farm dwellers differently from other beneficiaries, especially to avoid the pattern of farm workers losing their jobs as a result of state acquisition.

The following case from our research in the Eastern Cape illustrates the point: **'Yarrow Farm** is a small farm of 1,000ha adjacent to the national N2 road, 15 kms west of Grahamstown. Here six families reside. They are the descendants of farm workers who have lived and worked on the farm, in most cases for three or four generations. After the white owner sold the farm to the government in 2008, all the farm workers lost their jobs. In the eight years since, commercial production has not resumed. Initially, government allocated the farm on a one-year lease to an engineer living in East London, nearly 200km away, and then did not renew the lease when it became evident that he was not residing on the farm nor adequately managing it: he had agreed with the former white owner to lease it back to him but this deal had gone sour and no farming was being pursued, and this had led to vandalism and stripping of infrastructure. Following this aborted attempt at redistribution, the farm dwellers – who owned small livestock of their own and kept small vegetable gardens – approached the Department to ask if they could be recognized as the farm's owners. The response was positive: they received a letter in 2009 informing them that the Department would indeed provide them with a lease, but by 2016 they had still not been able to get one, despite repeated letters, phone calls and meetings with district officials, and two visits by the

² Umkhonto we Sizwe was the ANC's military wing, established in 1961.

national Minister. As one long-term occupier observed, 'Ideally, we would like to eventually own this farm. We have lived here all our lives, so it makes sense that we should be the ones who take control of this farm. Where else are we going to go? We know that government has bought this farm, and that they want to let us live here while they own it, but that makes us feel unsafe.' In the intervening seven years, the families have tried various survival strategies, including clearing bush by hand, fencing and establishing vegetable fields; sending family members to get jobs in town; securing child support grants and old age pensions; setting up a joint chicken project with assistance from the local mayor; and leasing out grazing land (and selling their labour as herders) to wealthy black businessmen from Port Elizabeth, over 100km away. With river frontage on a dammed section of the Assegaai River, and some cleared fields from the former chicory production, the farm is well suited to grazing. Yet intractable conflicts have now emerged: when government officials discovered the sub-letting agreement, they told the livestock owners that they could remain on the farm without paying rent, so the farm dwellers have lost their incomes and are unable to reassert their control over the land they leased out. Families have carved out areas of land for themselves in the absence of an agreed land use plan; and there is continuing uncertainty as to what kind of lease they might get, whether it will be for the whole farm or for subdivided portions, who will get it and what its terms (duration and rent) will be.'

Conclusion

Conditional tenure, under the authority of the state or traditional institutions – is a key way in which black rural populations can be controlled, and their failure to use land in compliance with official designs forms, once again, the basis for them to lose land. Land reform in the past 20 years has gone from prioritizing secure tenure as a basis for poor black South Africans to make their own land-use decisions to a highly prescriptive managerial approach that contributes to the privileging of sustaining commercial land use over providing secure tenure and preference for wealthy beneficiaries or agribusinesses. This can be characterized as a form of 'productionism' that has altered the foundational logic of redistribution. While the state is playing a more interventionist role by purchasing land itself, it is not challenging the supremacy of private property but rather becoming a significant player in the land market. And the capitalist logic of land reform has extended from market participation (to acquire the land) to expectations of commercial production (to use the land) in ways that mitigate against secured land access for the poor. When beneficiaries clearly cannot invest in and operate commercial farms, they are to be sidelined in favour of agribusinesses that can do so. The result, as we found in our field research, is a two-tiered land reform in which some (white-owned) agribusinesses garner handouts from the state, while poor families and communities who have accessed state land are left with insecure tenure and livelihoods. Without redistribution of power and wealth to those who are the ostensible beneficiaries, is it even land reform?

10. Post-transfer support and its coordination

Post-transfer Support and Coordination

Post-transfer support (also known as post-settlement support) for land reform beneficiaries arguably ranks high, next to the slow pace of the program, as one of the challenges facing this historically important program. In the context of land reform, post-transfer support/settlement entails support. According to the White Paper on Land Policy (1997) support that can be given include assistance with productive and sustainable land use, agricultural extension services support, infrastructural support, access to markets and credit facilities, and agricultural production inputs.⁹⁵ Since 1994 numerous studies have highlighted how one of the most evident challenges facing land reform has been the ineffective use by beneficiaries of land given through the program.⁹⁶ But studies also show that land reform beneficiaries in both land redistribution and restitution cases are faced with numerous challenges such as poor infrastructure on farms, access to agricultural inputs, group tensions and lack of support from official agencies (e.g. for agricultural extension, business management, legal advice etc). In fact, some scholars extend the definition/understanding of land reform to include post-transfer support as a necessary element of land reform.⁹⁷ Ghimire, for example argues that land reform should involve a significant change in the agrarian structure, resulting in increased land access for the rural poor, as well as secure rights to the land. He also believes that the absence of improvement in production structures, through training of beneficiaries, where necessary, access to markets, inputs, capital, and so forth, represent an incomplete land reform.⁹⁸ In the case of South Africa, researchers have argued that it is the absence of clear and coherent strategy on post-transfer support that is one of the main challenges.⁹⁹

Early in the process of land reform, the White Paper on Land Policy (1997) acknowledged how crucial post-settlement support is to land reform, but it also acknowledged the constraints that the department would be facing in trying to fulfil this goal, mainly due to the 'severe shortage of trained personnel'.¹⁰⁰

*Responsibilities and functions of different levels of government in post-settlement support*¹⁰¹

The national government:

The national government is responsible for policy setting and prioritization thereof in all aspects of land reform, including post-settlement support. It is also supposed to provide implementation guidelines, as well as monitoring, evaluation and review of specific aspects of the land reform. As such, the national government does not have a direct implementation responsibility, as this is done at other levels of government. In regards to post-settlement support, therefore, the national government has created two major policies that have direct relevance to post-settlement support.

The first one is the **Comprehensive Agricultural Support Programme (CASP)**, which was formulated in 2003.¹⁰² The aim of CASP is to provide postsettlement support to the targeted beneficiaries of land reform and to other producers who have acquired land through private

means and are, commercially producing for the domestic or export markets. The six core priority areas of the programme are (i) information and technology management; (ii) technical and advisory assistance, and regulatory services; (iii) marketing and business development; (iv) training and capacity building; (v) on/off farm infrastructure and product inputs; and (vi) financial support. Targeting poor and emerging commercial farmers, CASP seeks to contribute to wealth creation in the countryside, increased food security, sustainable agricultural production, increased employment in the agricultural sector, land use efficiency and increased investor confidence in the agricultural sector, among other things. Importantly, CASP targets people in agricultural based activities through a one-off grant system. CASP is implemented by provincial governments. Studies show that despite its slow start, CASP has seen increased participation and budget increases since 2004/2005, including among formerly marginalized participants (e.g. Women).¹⁰³

The second national policy relating to post-settlement support is the **Recapitalisation and Development Policy Programme (RECAP)**, which has been analysed in greater detail elsewhere in this report. Created in 2009, RECAP focuses on developing human capacity, infra-structure and operational inputs on properties newly acquired through the land redistribution, restitution and other programmes since 1994, but that experience distress. Since 2014 RECAP has replaced all other forms of funding for land reform, including post-settlement support in both redistribution and restitution programs.¹⁰⁴ It is important to note that RECAP can only be given to beneficiaries if they have strategic partners or mentors, as well as a business plan that is, more often than not, developed by private sector consultants. According to studies show that huge amounts of money have been spend on RECAP, but the strategic partner-beneficiary relationships remain poor, and skills transfers and benefits for beneficiaries are limited.¹⁰⁵

The national government, mainly through two departments – the Department of Rural Development and Land Reform and the Department of Agriculture, Forestry and Fisheries -, in addition to coming up with policies mentioned above, their other responsibilities are to approve post-settlement support arrangements, establish a framework for interdepartmental cooperation, develop a database for post-settlement support and monitor and review the implementation of the policies created. However, it has been argued that for many of these responsibilities challenges relating to confusion, staff shortage and inefficiency, remain and threaten to undo any gains made.¹⁰⁶ While the two policies mentioned above (CASP and RECAP) are the most prominent ones affecting land reform post-settlement support, there are others that exist, some of which have emerged outside of land reform. These include Illima-Letsema; Black Economic Empowerment in agriculture, agricultural extensions services, to mention a few. These other national strategies mean that it is important to coordinate how these deployed to assist land reform beneficiaries, in such a way that they complement each other rather than duplicate and contradict each other.

The provincial and local government

Relevant provincial departments are key institutions in the implementation of the land reform post-settlement support programmes. In other words, it is the provincial sphere of

government that currently plans post-settlement support and steers it through a number of phases, including performing a feasibility study; conducting an EIA; land use planning; capacity building/technical advice and ensuring stakeholder participation. Given that local governments are closest to the people, they are sometimes responsible for the delivery of post-settlement support to the people through its IDPs. Once the land has been acquired by beneficiaries, it becomes part of the municipal IDP projects that are to be given support by a relevant institution or department.¹⁰⁷

Conclusion

Government appears to acknowledge how crucial post-settlement support is to the success of land reform, increase in food security, sustainable land-based economic development and increasing the prosperity of poor people who were previously, and sometimes continue to be, marginalized. The policies created and financial investment made towards post-settlement support is clearly commendable, but there are still many challenges. Many of these challenges originate before we can even speak about post-settlement support – they relate to numerous issues, including poor beneficiary selection in redistribution projects, staff capacity to deal with the bureaucracy involved in helping beneficiaries apply for the support they need, over-reliance on consultants to do some of the work, thus leaving many projects without continuity of support, and so forth.¹⁰⁸ While a daunting task in appearance, better record-keeping, good monitoring and evaluation appear to hold promise if done adequately.

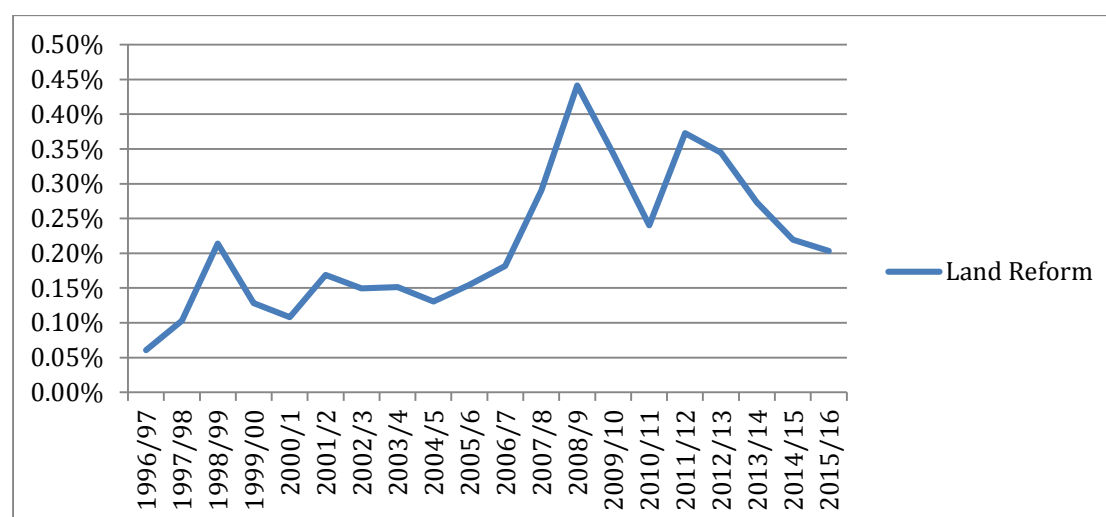
An example from our research findings implementation of PLAS in the Eastern Cape also points at how poor departmental coordination can stall post settlement support to beneficiaries: *'Our findings point to a stand-off between key state ministries, notably those responsible for land reform and for agriculture. Provincial agricultural officials we interviewed indicated that they will not provide support to these projects, because of a lack of long-term leases but also because of a perception that since DRDLR has funds under its Recapitalisation and Development Programme, agricultural authorities have no responsibilities to deliver on their mandate of agricultural support. These two departments have no shared policy framework or coordinated input at project level, with the result that some people get land without any support to use it, are sent back and forth between departments, and may wait many years after occupation for any infrastructure or production support. The current policy model requires re-negotiation of state institutions' roles.'*

11. Budget review

The budget for land redistribution is contained within the budget vote for Rural Development and Land Reform and appears as a line item entitled 'Land Reform' alongside 'Restitution' and 'Rural Development'. Here our focus is on the 'Land Reform' budget line only.

Expressed as a percentage of National Expenditure, the Land Reform budget has generally been between 0.15% and 0.4%, reaching a peak of 0.44% of the national expenditure in 2008/09 and then declining to 0.2% in the current financial year (see Figure 12).

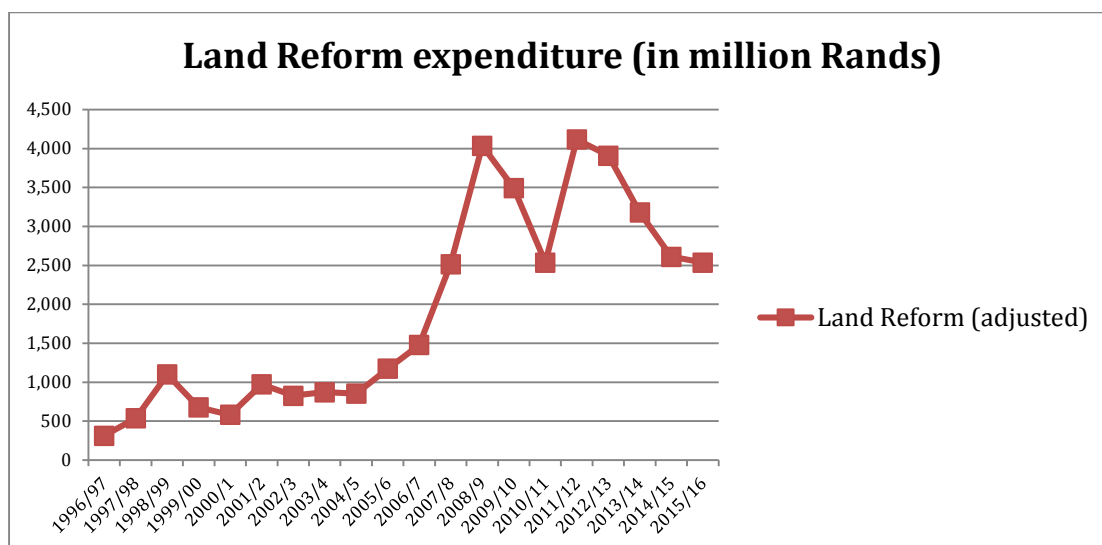
Figure 12: Land Reform budget as percent of National Expenditure



Source: National Treasury, various¹⁰⁹.

Figure 13 shows the growth and then fluctuations, and then decline, in the Land Reform expenditure over time. Note that we present expenditure rather than initial budget allocations at the start of each year. In many years, allocations have been revised in response to under-expenditure, especially up to the early 2000s and even in the past two years.

Figure 13: Land reform expenditure (in million Rands), 1996-2016 (inflation adjusted)

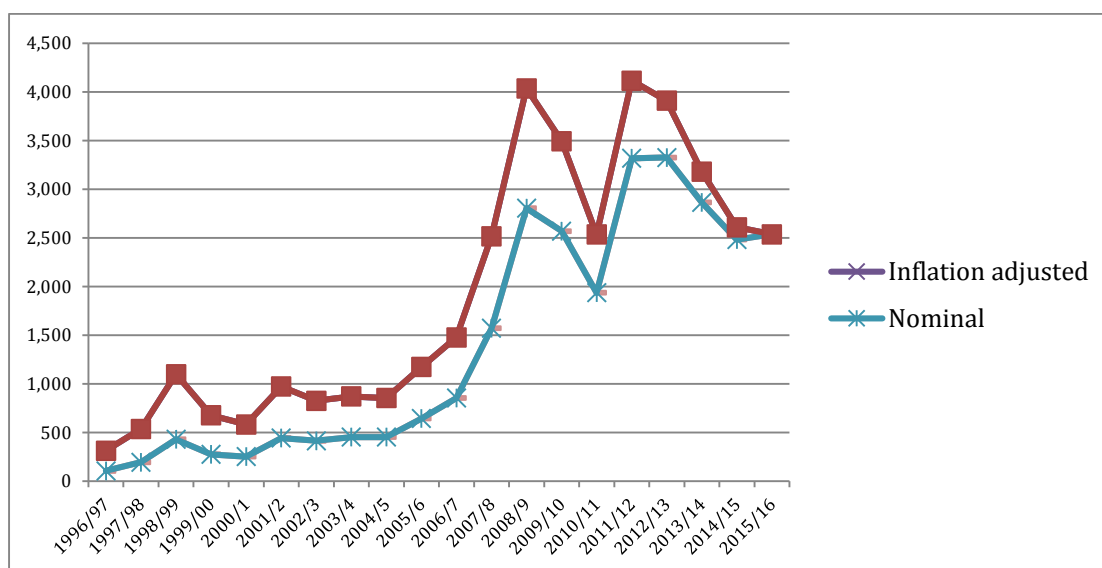


Sources: Estimates of National Expenditure 2000, 2003, 2006, 2009, 2012, 2015, 2016.

Note: Figures have been adjusted for inflation, to 2015/16 levels, using StatsSA CPI.

Figure 14 shows these same fluctuations, comparing nominal Rands with inflation adjusted Rands. This shows how the fluctuations are greater in reality than when looking at the Rand figures in the budget. It also shows that in real terms, the current level of expenditure for land reform has returned to the levels of 2006/07.

Figure 14: Land reform expenditure – nominal and inflation adjusted (in million Rands), 1996/97 to 2015/16

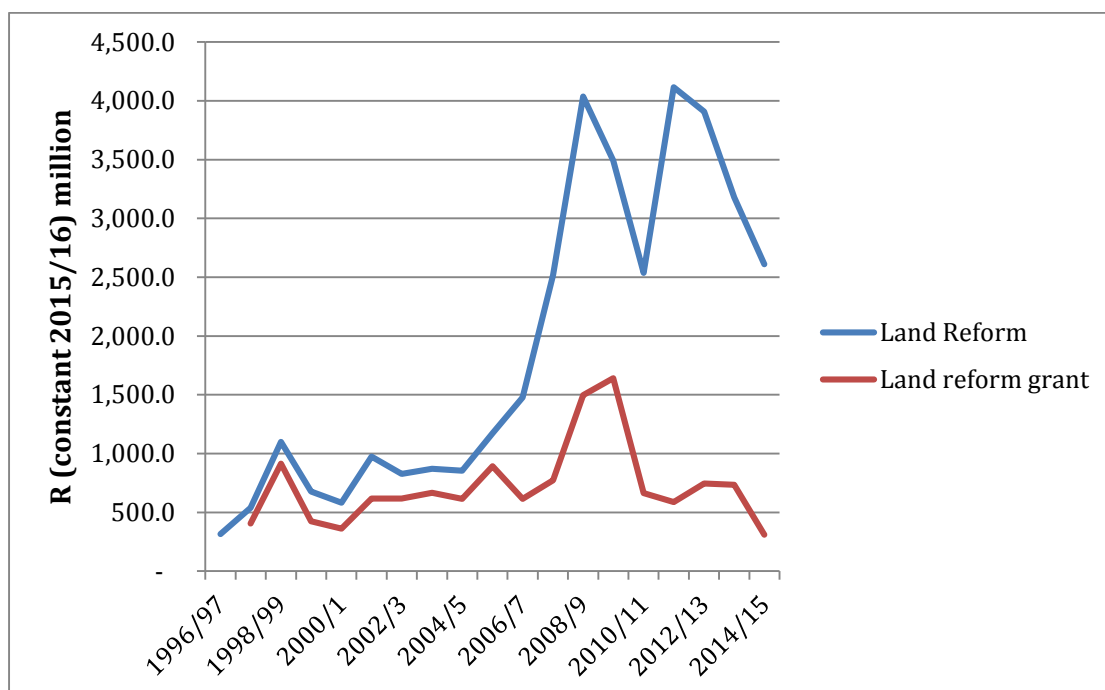


Sources: Estimates of National Expenditure 2000, 2003, 2006, 2009, 2012, 2015, 2016.

Note: Figures have been adjusted for inflation, to 2015/16 levels, using StatsSA CPI.

The Land Reform budget includes current costs, including operational costs of the offices of the Department and its staff. Capital costs include Land Reform Grants (previously SLAG, LRAD, Commonage and other products, and now also Recap) and an Agricultural Landholding Account (for state purchase of land for redistribution). Since land grants were abandoned in 2011, the Agricultural Landholding Account is therefore the only budget line for acquiring land for redistribution. Overall, Land Reform Grants have constituted a declining share of the Land Reform budget, as Figure 15 shows below.

Figure 15: Land Reform Grants compared to Land Reform expenditure for 1996/97-2014/15 period (in million Rands)



Source: authors' own calculations based on Annual Reports and National Treasury, as summarised in Parliament 2016: .5

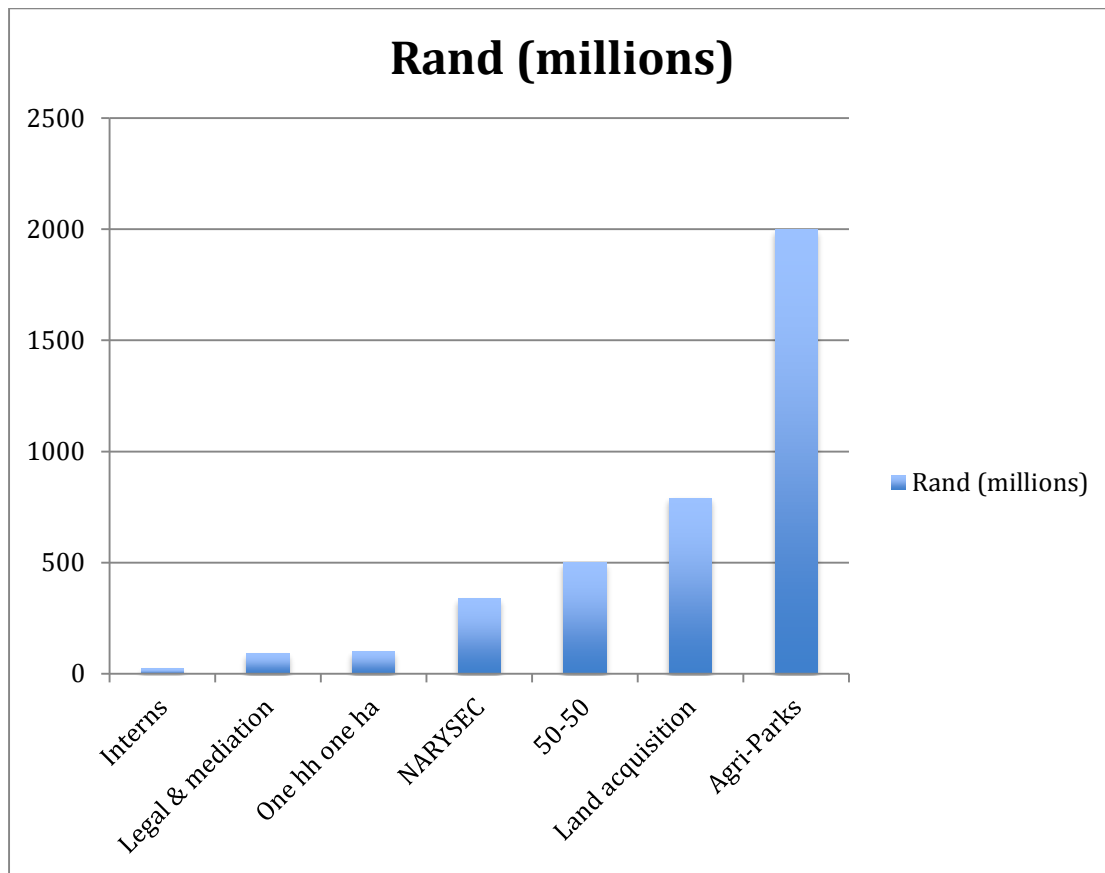
Note: Adjusted for inflation to 2015/16 Rands.

By 2016, expenditure on land reform grants had returned to the levels of 20 years ago. However, land acquisition is no longer included under 'Land Reform Grants', given the creation of the Agricultural Landholding Account through which the state purchases land for redistribution on leasehold.

On 6 May 2016, the Minister announced in Parliament a plan for speeding up land reform, and outlined a re-allocation of the Land Reform budget across different policy areas. Key among these is Agri Parks, the initiative by the Department to establish agro-processing infrastructure in hubs connected to black farmers – which is nonetheless being funded out

of the land reform budget. Also allocated funds are the two new and not formalized policies – 50/50 and One Household, One Hectare. Further smaller allocations are made to NARYSEC and others. Overall, just R750m is still earmarked for land acquisition. Headed ‘Government serious about speeding up land reform’, the Minister actually set out a re-allocation of funds away from land acquisition – in other words, announcing that redistribution would slow down. The re-allocation announced is shown in Figure 16 below.

Figure 16: Re-allocation of Land Reform budget, 2016/17



Source: MRDLR 2016 (author's calculations)¹¹⁰

12. Gaps in knowledge

There is very little detailed information about implementation, delivery and outcomes of land redistribution nationally that is in the public domain. We therefore in this section raise questions that we are not in a position to answer, but which we feel the High-Level Panel is concerned with, and could ask questions of the Department, or set in place better systems to be able to answer these questions over time.

12.1 Is land redistribution reducing poverty and inequality?

Land redistribution is about race but it is also about equity more broadly, and has been consistently identified as a programme of government that can contribute to achieving goals of reducing poverty and inequality. But to what degree is it doing this?

There are several ways to investigate this, the best of which would be a longitudinal panel data study of land reform projects, tracking beneficiaries from before they are allocated land to the early period, and over time from there. No such study has been done in South Africa – though there is a longstanding study of this kind in Zimbabwe, dating from the early 1980s, which has produced important insights.

How equitable or inequitable is the distribution of budget?

In the absence of proper studies to tell us whether or not land redistribution is reducing poverty and inequality, we can only look at the question of equity in the distribution of available public funds.

Since the abandonment of the means test in 2001, there has been no official mechanism for rationing scarce public funds. Unlike in the housing programme, where there is a transparent system, in land redistribution now, some households may get to share a modest farm with many other people, and with zero state support or relevant infrastructure. Others, though, are bought large going concerns by the state, complete with advanced infrastructure, livestock, crops, and are then subsidized for the first five years with Recap funds. Who gets what is simply impossible to say – nor whether there is any rationale driving the decision to give a little to some and a lot to others. Our examples from the Eastern Cape in particular highlight the need to ask these questions.

While comprehensive information is not available to answer these questions now, at least the Department should be able to provide summary data to show the distribution of budget across beneficiaries, to show how much public money is being spent on the range of beneficiaries, from those the state spends the least on, to those it spends the most on. Such an exercise could start with disclosing basic distributional data along the lines of the (empty) Table 5 below, which could either be provided by the Department, or computed if the Department were to provide its full project database.

Table 6: Distribution of budget per beneficiary

Range	Number of projects	Number of beneficiaries	Total Rands
< R10,000 per person			
R10,000 – R50,000 per person			
R50,000 – R100,000 per person			
R100,000 – R250,000 per person			
R250,000 – R500,000 per person			
R500,000 – R1,000,000 per person			
R1,000,000 – R2,500,000 per person			
R2,500,000 – R5,000,000 per person			
>R5,000,000 per person			

Source: authors' design. No data available.

12.2 How equitable or inequitable is the redistribution of land?

How much do people get? Clearly, there is no standard amount of land being acquired and variation is to be expected. At the same time, there is as far as we can tell currently no way that Parliament can exercise oversight over how land is distributed – to how many people – and the degree of equity or inequity involved. To understand the degree to which the allocation of land is equitable or skewed would require at least an initial set of summary data. Further details would need to include provinces. In the absence of national project-level data, summary data on how much people are getting could be presented in a table such as this.

Table 7: Distribution of hectares per beneficiary

Range	Number of projects	Number of beneficiaries	Women	Youth	Disabled	Farm workers	Rands
1-10ha per person							
10-50ha per person							
50-100ha per person							
100-250ha per person							
250-500ha per person							
500-1,000ha per person							
1,000-2,500ha per person							
2,500-5,000ha per person							
>5,000ha per person							

Source: authors' design. No data available.

How many long-term leases are in place on state-acquired farms?

Land redistribution used to involve one process of land acquisition – land passed directly from private owners (sellers) to beneficiaries (buyers, with state support). Since the advent of PLAS, acquisition of farms by the state is a separate process from allocation of land to beneficiaries. In many cases we have found that the state has managed to spend budgets and acquire hectares – but not to redistribute the land to beneficiaries, or to conclude leases on the land. In this sense, the delivery data on ‘redistribution’ may not refer to land that is redistributed, but rather to land acquired by the state. What remains to be seen is how much of the land acquired by the state has in fact been redistributed.

Table 8: Status of project (number) per province

	Land acquired	Land allocated	Leases current	Rent up to date	Beneficiaries settled	Production underway
Eastern Cape						
Free State						
Gauteng						
KwaZulu-Natal						
Limpopo						
Mpumalanga						
North West						
Northern Cape						
Western Cape						
TOTAL						

Source: authors’ design. No data available.

Other

There are several other important questions that we wish to raise even though we cannot answer them. The paucity of publicly-available information about the operational matters of land redistribution, and the extremely limited monitoring and evaluation information material available, prevents us from answering these questions. Nonetheless, a combination of case studies, media reports and statements from beneficiaries themselves raise these questions.

We suggest a few core questions to be addressed in the course of this inquiry, though there are certainly many more that could be asked:

- How are the beneficiaries actually assessed and prioritized in district, provincial and national land allocation decisions?
- How many farms ‘redistributed’ have been lost again due to foreclosure on debts (especially under LRAD)?
- How many beneficiaries has the state evicted (especially under PLAS)?

13 Conclusion

Land redistribution is slowing down quite dramatically. Budgets have declined, and the rate of delivering access to land has declined faster, as available funds are diverted to purposes other than acquiring land and securing rights.

In conclusion, we wish to suggest to the High-Level Panel that it could decide to reject the standard views of the 'problems' with land reform. The first standard view is this: land reform is on track but just too slow; it must be speeded up and better ways found of acquiring land at reasonable cost. The second standard view is: land reform beneficiaries are not productive enough: they must be 'disciplined' or land must be given over to those with skills and own means to be productive, or to commercial strategic partners to farm instead. These are not the most important strategic questions facing land reform. This review of the past 20 years shows that these are wholly inadequate ways of characterizing the big questions facing land redistribution. Land reform is clearly in flux, but where is it heading?

We suggest an alternative set of questions that deserve to be answered, either in legislation or in policy.

First, who should get the land? Should this be the 'rural poor', the experienced, the dispossessed or the creditworthy? Should emerging black commercial farmers be the focus? What about farm workers? Or should it be urban business people and entrepreneurs with capital to invest? Related to this is how public funds should be distributed: should the wealthy get substantially more support than the poor? Should women be prioritised or not? What would priority to women and to the poor require in terms of policy prescription, and how would this be assessed?

Second, how should the land be used – what type and scale of farming? Should land be redistributed to enable settlement and multiple livelihoods? Or should it be exclusively for farming? If so, should this be farming on a small scale, made possible through proactive subdivision? Or should it be on various scales? Or should it be for farming only on existing farming units?

Third, how should land be identified and acquired? Should redistribution be restricted to those properties that are offered for sale – ie. no targeting? Or should there be area-based priorities? If so, how can these priorities be set, what state planning is needed to inform this and how can the process be participatory and enable local people to identify their land needs and vision for redistribution? In other words – who will determine where land is redistributed? The market? State officials? Or rural communities themselves?

Fourth, how is land to be valued? What should the state, or beneficiaries, pay for land? Should this be a 'market' price, a negotiated price, or a price determined on the basis of Section 25(3) of the Constitution? If the latter, how should 'just and equitable' compensation be defined? How should the history of acquisition, market value, past subsidies, current use and purpose of expropriation be defined, and how can a formula be

developed to clarify this? Should a case be taken to the Constitutional Court precisely to get judicial guidance on how to address valuation?

Fifth, what rights should beneficiaries have? Should they be owners of the land? Or long-term lessees? What is the rationale for leasing, and should those who don't pay lose their land? Does the state have the capacity to enforce leases and extract rents – now and in the future when more properties are obtained? Should land be held by traditional councils on behalf of communities, or by beneficiaries through communal property institutions? Is payment of rent to the state a feasible and workable system, and what does the track record of the past decade tell us about this? Should people obtain secure long-term rights, or contingent rights based on 'production discipline' and a 'use it or lose it' approach? What capacity does the state have to determine effective use of land within people's available resources? And is there a strong political and legal rationale for land reform beneficiaries' tenure to be contingent on 'production discipline' while private owners' tenure is not?

On each the above core questions relating to land redistribution, existing policy is unclear.

What is clear is that land redistribution is moving in contradictory directions. On the one hand, government is entering into costly ventures to acquire high-value land and conclude deals with strategic partners to run commercial farms and associated processing facilities, in the names of farm workers whose beneficiary trusts are invisible to public scrutiny – and further paid out substantial funds in Recap funding under the control of the same strategic partners. On the other hand, government is proceeding to pay out modest amounts to give households one hectare each, or shareholding in commercial farms, in two policies that have not been formally endorsed but are being implemented with public funds. None of these models have been adequately assessed. Government has not made public the relevant information with which to assess these. However, some sources of information raise serious questions as to the manner in which decisions are made to buy farms; to allocate them to beneficiaries; to enter into strategic partnerships; to allocate Recap funds. All these processes are far from the scrutiny of Parliament and the public at large, and only case study and anecdotal evidence suggests that there are widespread problems, though their scale and also their causes cannot be definitively stated at this stage.

The legislation enacted by Parliament – the Constitution with Section 25 of the Bill of Rights, and Act 126 of 1993 and its amendments in 1998 and 2008 – give enormous powers to the Minister of Rural Development and Land Reform. How these powers are used, what discretion the Minister exercises and what kind of land redistribution is pursued, are matters in which Parliament and the public at large have an interest.

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- ¹ This report draws in part from: Hall, R. 2009. (Ed). *Another Countryside? Policy Options for Land and Agrarian Reform in South Africa*. Bellville: PLAAS.; Hall, Ruth. 2010. *The Politics of Land Reform in Post-Apartheid South Africa, 1990-2004: A Shifting Terrain of Power, Actors and Discourses*. Doctor of Philosophy thesis, University of Oxford; Hall, Ruth, 2015. "Who, what, where, how, why? The many disagreements about land redistribution in South Africa" in Ben Cousins and Cherryl Walker (eds) 130-148, in: *Land Divided, Land Restored: Prospects for Land Reform in 21st Century South Africa*. Jacana, Cape Town, pp. 130–148.
- ² ANC (African National Congress). 1994. *The Reconstruction and Development Programme*. Johannesburg: Umanyano Publications, page 19
- ³ ANC 1994: 19-20
- ⁴ Van den Brink R, Thomas G, Binswanger H, Bruce J & Byamugisha F. 2006. *Consensus, Confusion, and Controversy: Selected Land Reform Issues in Sub-Saharan Africa*. World Bank Working Paper No. 71. Washington, DC: World Bank, page 25
- ⁵ RSA 1993a
- ⁶ RSA 1993: 1
- ⁷ We cannot find any record of such an entity being established, as required in section 10A of the amended act, Act 58 of 2008.
- ⁸ Parliamentary Monitoring Group. 2008. Provision of Land and Assistance Amendment Bill [B40 of 2008] deliberations. 28 August 2008. <https://pmg.org.za/committee-meeting/9548/>
- ⁹ Ntsebeza, 2007
- ¹⁰ CRLR 2005: 123
- ¹¹ MALA 2004; *SANews.gov.za* 2013
- ¹² Lahiff 2007
- ¹³ DLA (Department of Land Affairs), *White Paper on South African Land Policy* (Pretoria, 1997).
- ¹⁴ Klug, Heinz, *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction* (Cambridge, 2000).
- ¹⁵ Marcus et al. 1996 p. 197
- ¹⁶ DLA 1995c: 9
- ¹⁷ DLA 1995a p. 8
- ¹⁸ DLA 1997b p. 3
- ¹⁹ MALA 1999a p. 2
- ²⁰ MALA 1999b p. 5
- ²¹ MALA 1999a
- ²² DLA 1997: 28
- ²³ DLA 1997: 51
- ²⁴ Anderson, Megan and Kobus Pienaar 2003. *Municipal Commonage*. Evaluating land and agrarian reform in South Africa occasional paper. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape, page 11.
- ²⁵ Cochet, Hubert, Ward Anseeuw, Sandrine Freguin-Gresh. 2015. *South Africa's Agrarian Question*. Cape Town: Human Sciences Research Council Press.

-
- ²⁶ MALA (Ministry of Agriculture and Land Affairs), *Land Redistribution for Agricultural Development: A Sub-programme of the Land Redistribution Programme* (Pretoria, 2001).
- ²⁷ MALA (Ministry of Agriculture and Land Affairs), *Land Redistribution for Agricultural Development: A Sub-programme of the Land Redistribution Programme* (Pretoria, 2001).
- ²⁸ Marian Lacey, *Working for Boroko: The Origins of a Coercive Labour System in South Africa* (Johannesburg, 1981), p. 21.
- ²⁹ Tessa Marcus, Kathy Eales and Adele Wildschut, *Land Demand in the New South Africa* (Johannesburg, 1996).
- ³⁰ This section draws from Hall (2005).
- ³¹ DRDLR 2010a: 1
- ³² DLA 2006: 11; original emphasis
- ³³ DLA 2006: 7
- ³⁴ DLA 2006: 16–17
- ³⁵ Radebe H, Minister gives farmers five years to get it right, *Business Day*, 20 August 2012.
- ³⁶ DRDLR.2012. The state of area based rural development and land reform plans in South Africa since 2006. Rapid inventory of ABPs and RDLRPs. Pretoria: DRDLR and Belgian Technical Cooperation. <http://www.ruraldevelopment.gov.za/publications/state-of-area-based-plan> (accessed 27 September 2016)
- ³⁷ DRDLR 2012: 6-7.
- ³⁸ DRDLR 2012: 7.
- ³⁹ <http://www.gov.za/speeches/minister-launched-one-household-one-hectare-programme-kenton-sea-eastern-cape-30-oct-2015> (accessed 27 September 2016)
- ⁴⁰ AFASA. 2016. One household, one hectare policy. *Farmers' Weekly*. 3 June 2016, p. 25.
- ⁴¹ Hall, Ruth and Andries du Toit. 2014. Smoke and mirrors in government's farm worker policy. 15 April 2014. <http://www.plaas.org.za/blog/smoke-and-mirrors-government%E2%80%99s-farm-worker-policy> (accessed 27 September 2016)
- ⁴² Panel of Experts on Foreign Ownership of Land. 2007. Report and Recommendations by the Panel of Experts on the Development of Policy Regarding Land Ownership by Foreigners in South Africa. Report to Minister of Agriculture and Land Affairs, Hon. Lulu Xingwana. August 2007.
- ⁴³ Aliber & Mokoena 2002
- ⁴⁴ DLA 2002
- ⁴⁵ Note: The meaning of the DRDLR data is somewhat unclear, as in the SLAG period, households rather than individuals were listed as beneficiaries, and only female-headed households were distinguished from male-headed households. How households and individuals have been combined in summary data from the Department is unclear.
- ⁴⁶ DLA 1997: ix
- ⁴⁷ DLA 1997: 45
- ⁴⁸ Jacobs et al. 2003
- ⁴⁹ RSA 2013a
- ⁵⁰ Parliament. 2016. Working Group Two: Land Reform Expenditure Analysis: A Focus on 1994-2015 Period. Unpublished document. 26 September 2016
- ⁵¹ Aliber, Michael. 2009. Farmland Price Trends in South Africa, 1994-2008. Institute for Poverty, Land and Agrarian Studies, University of the Western Cape. Report for the

Directorate: Monitoring and Evaluation, Department of Rural Development and Land Reform. October 2009.

⁵² DLA & HSRC 2005

⁵³ Lahiff 2007; Van den Brink et al. 2006

⁵⁴ South African Property Owners' Association 2004

⁵⁵ Binswanger, Deininger & Feder 1995

⁵⁶ Binswanger et al. 1995

⁵⁷ MALA 2001

⁵⁸ MALA 2001: 13

⁵⁹ MALA 2003: 12

⁶⁰ Hall & Williams 2003; Van den Brink et al. 2004

⁶¹ Cliffe, Lionel. 2007. *Policy options for land reform in South Africa: New Institutional Mechanisms?* Policy brief 26. Programme for Land and Agrarian Studies, University of the Western Cape.

⁶² Kepe, T., Hall, R. & Cousins, B. (2008). 'Land'. In (eds) Sheppard, N. & Robins, S. *The New South African Key Words*. Athens: Ohio University Press and Johannesburg: Jacana Media; Ferguson, J. 2013. How to Do Things with Land: A Distributive Perspective on Rural Livelihoods in Southern Africa. *Journal of Agrarian Change*, 13 (1), 166-174.

⁶³ Gibson, J.L. 2009. Land Redistribution/Restitution in South Africa: A Model of Multiple Values, as the Past Meets the Present. *British Journal of political Science*, 40: 135-169.

⁶⁴ Andrew et al. 2003; DLA 1997; May & Roberts 2000

⁶⁵ DLA 2003: xx

⁶⁶ May & Roberts 2000: 8, 13

⁶⁷ May & Roberts 2000: 14

⁶⁸ May & Roberts 2000: 15

⁶⁹ Murray 1997

⁷⁰ Kirsten J & Machete C 2005 Appraisal of Land Reform Projects In Northwest Province. University of Pretoria: Pretoria; : 6, emphasis added

⁷¹ Kirsten & Machethe 2005: 33

⁷² Du Toit 2004

⁷³ Andrew et al. 2003

⁷⁴ Lahiff, E. 2014. Land Reform in South Africa 100 Years after the Natives' Land Act. Review Essay. *Journal of Agrarian Change*, 14(4), 586-592.

⁷⁵ Hall, R. 2009. (Ed). *Another Countryside? Policy Options for Land and Agrarian Reform in South Africa*. Bellville: PLAAS.

⁷⁶ Derman, B., Lahiff, E and Sjaastad, E. 2010. Strategic Questions about Strategic Partners: *Challenges and Pitfalls in South Africa's New Model of Land Restitution*. In (Eds) Walker, C., Bohlin, A., Hall, R and Kepe, T.. *Land, Memory, Reconstruction and Justice: Perspectives on Land Claims in South Africa*. Athens: Ohio University Press.

⁷⁷ Lahiff, E., Davis, N. and Manenzhe, T. (2012) *Joint ventures in agriculture: Lessons from land reform projects in South Africa*. IIED/IFAD/FAO/PLAAS, London/Rome/Cape Town.

⁷⁸ B Hebinck & B Cousins (eds). *In the Shadow of Policy: Everyday Practices in South African Land and Agrarian Reform*. Johannesburg: Wits University Press.

⁷⁹ Cousins, B., Scoones, I., 2010. Contested paradigms of 'viability' in redistributiveland reform: perspectives from Southern Africa. *Journal of Peasant Studies* 37(1), 31-66.

⁸⁰ Mayson, D. 2003. Joint Ventures. Programme for Land and Agrarian Studies, University of the Western Cape.

⁸¹ National Assembly Oral reply, Question 117, Question Paper No. 52011 (24 August 2011).

⁸² Rusenga, C. 2016. *Challenges of Employment Creation and Poverty Reduction in Land Reform in South Africa*. Afesis-Corplan, <http://www.afesis.org.za/sustainable-settlements/sustainable-articles/471-challenges-of-employment-creation-and-poverty-reduction-in-land-reform-in-south-africa.html> (Accessed 25 September 2016)

⁸³ Derman, B., Lahiff, E and Sjaastad, E. 2010.

⁸⁴ Hall, R and Kepe, T. 2016. The Proactive Land Acquisition Strategy in the Eastern Cape: Research findings from Sarah Baartman District. Field notes.

⁸⁵ Lahiff, E., Davis, N. and Manenzhe, 2012.

⁸⁶ Vermeulen, S. and Cotula, L. 2010. Making the most of agricultural investment: A survey of business models that provide opportunities for smallholders. IIED/FAO/IFAD/SDC, London/Rome/Bern.

⁸⁷ Lahiff, E., Davis, N. and Manenzhe, 2012.

⁸⁸ DRDLR 2013: 10 (Recap)

⁸⁹ DRDLR. 2013. The Policy for the Recapitalisation and Development Programme of the Department of Rural Development and Land Reform. 23 July 2013.

⁹⁰ Department of Rural Development and Land Reform. 2015. Recapitalisation and Development Programme. Presentation to the Public Hearings organised by the Portfolio Committee on Rural Development and Land Reform, 4-5 February 2016.

⁹¹ University of Pretoria. 2013. 87

⁹² University of Pretoria. 2013. 94

⁹³ Parliament 2015: 6-7; author's summary

⁹⁴ Parliament 2015: 7-8; authors' summary

⁹⁵ Masoka, N.S. 2014. Post-settlement land reform challenges: The case of the Department of Agriculture, Rural Development and Land Administration, Mpumalanga Province. Master of Public administration Thesis, North-west University.

⁹⁶ Binswanger-Mkhize, H.P. 2014. From failure to success in South African land reform. *African Journal of Agricultural and Resource Economics* Volume 9 Number 4 pages 253-269.

⁹⁷ Manenzhe, T.J. 2007. Post-settlement support challenges for land reform beneficiaries: three case studies from Limpopo Province. M.Phil Thesis, University of the Western Cape.

⁹⁸ Ghimire, KB. 2001. *Land Reform and Peasant Livelihoods: The social Dynamics of rural poverty and agrarian reforms in developing countries*. ITDG Publishing. London.

⁹⁹ Hall, R. 2003. *Rural Restitution*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. Evaluating land and agrarian reform in South Africa. (occasional Paper Series no.2)

¹⁰⁰ Department of Land Affairs. 1997. White Paper on South African Land Policy. Department of Land Affairs. Pretoria: Government Printers, page 9.

¹⁰¹ Masoka, 2014; Van der Elst, H. 2007. Post-settlement support as a contributor to the success of the South African land reform programme (1994-1997). *Politeia: South African journal for Political Science and Public Administration*, 26(3)290-298; Van der Elst, H. 2008. Post-settlement land reform objectives in South Africa: towards a management model for sustainable development. PhD. Thesis, University of North-West.

-
- ¹⁰² Department of Agriculture, Forestry and Fisheries (DAFF). *Comprehensive Agricultural Support Programme (CASP)*. Department of Agriculture, Forestry and Fisheries (DAFF), Pretoria: <http://www.nda.agric.za/docs/CASP/casp.htm> (Accessed 30 September 2016).
- ¹⁰³ Nesamvuni, E., Mpandeli, S., Tshikolomo, K. and and Swanepoel, F. 2016. Empowerment of Women through Comprehensive Agricultural Support Programme (CASP) in Gauteng Province, South Africa. *Journal of Human Ecology*, 54(2): 110-118.
- ¹⁰⁴ Department of Rural Development and Land Reform. 2013. Three Year Review of Recapitalisation and Development Programme: September 2013. Pretoria: Department of Rural Development and Land Reform.
- ¹⁰⁵ Binswanger-Mkhize. 2014.
- ¹⁰⁶ Masoka, 2014; Van der Elst, 2007
- ¹⁰⁷ Masoka, 2014.
- ¹⁰⁸ Binswanger-Mkhize. 2014
- ¹⁰⁹ National Treasury. 2000. Estimates of National Expenditure. Available at: http://www.treasury.gov.za/documents/national%20budget/2000/ene/vote_29.pdf (Accessed July 26 2016); National Treasury. 2003. Estimates of National Expenditure. Available at: http://www.treasury.gov.za/documents/national%20budget/2003/ene/vote_30.pdf (Accessed July 26 2016); National Treasury. 2006. Estimates of National Expenditure. Available at: <http://www.treasury.gov.za/documents/national%20budget/2006/ene/Vote%2029%20Land%20Affairs.pdf> (Accessed July 26 2016); National Treasury. 2009. Estimates of National Expenditure. Available at: <http://www.treasury.gov.za/documents/national%20budget/2009/ene/27%20land.pdf> (Accessed July 26 2016); National Treasury. 2012. Estimates of National Expenditure. Available at: <http://www.treasury.gov.za/documents/national%20budget/2012/ene/FullENE.pdf> (Accessed July 26 2016); National Treasury. 2015. Estimates of National Expenditure, Abridged version. Available at: <http://www.treasury.gov.za/documents/national%20budget/2015/ene/FullENE.pdf> (Accessed July 26 2016); National Treasury. 2016. Rural Development and Land Reform Budget: Estimates of National Expenditure
- ¹¹⁰ Ministry of Rural Development and Land Reform. 2016. Government serious about speeding up land reform. Statement. 6 May 2016. <http://www.drdlr.gov.za/news-room/news-flash/file/4414> (accessed 28 September 2016)