



African Union

Land Reform in South Africa

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DLA—District Land Administration

Introduction

As of June 2011, with South Sudan gaining independence from North Sudan, there are 55 independent countries in Africa. Despite their proclamation of independence however, many African countries are still haunted by the inheritance of colonial policies regarding the distribution of natural resources within their regions. What actions should post-independent African countries take when considering the land and natural resources appropriated during colonization? There is little denying the importance of agriculture to the development of African countries, not only to sustain their populations in a racially equitable manner, but also to be economically competitive on a global scale. Of the many challenges facing the post-apartheid government of the Republic of South Africa, the issue of land redistribution has proved to be one of the most difficult and complex to solve.

According to the District Land Administration (DLA), land reform is necessary to redress the injustices of the apartheid, to foster national reconciliation and stability, to underpin economic growth, and to improve household welfare and alleviate poverty. (DLA 1997) By the end of the South African apartheid in 1994, 87% of commercial farmland was owned by whites and 13% by blacks—the exact reverse of their proportion of the population. Faced with the challenge of how to equitably redistribute the nation's land in a way that prevents social upheaval but also protects property rights and economic viability, the first democratically elected black government set a target of redistributing 30% of the commercial land to black farmers by 2014. Over the past 15 years however, barely 5% has been handed over, forcing the government to push back the target for completing the land reform until 2025. While this may give the government more time, many argue that this date is also ambitious.

In this country in which 70% of rural people live below the poverty line, (among them nearly a million farm workers and their dependents) and a third of South Africa's population is crowded onto less than 13% of the land, the importance of drawing up an equitable solution to the redistribution of land cannot be overstated. Over the past decade, South Africa's neighboring country, Zimbabwe, redistributed white commercial farmland without compensation to the white farmers, and without a clear strategy of aiding and training the land distribution beneficiaries. The results of the radical distribution policy in Zimbabwe derailed the economy, and resulted in racially charged violence in which a large number of white farmers were attacked and killed. The land redistribution program in Zimbabwe, which began in 2000, has since inspired radical youth groups in South Africa to call for the forced appropriation of white-owned farm lands; this could lead South Africa down a land redistribution path similar to that of Zimbabwe. Recognizing the fact that how you deal with the land redistribution program in South Africa will create an important precedent for other African nations which have not yet addressed the issue, it is up to the African Union to work together to create a viable policy-based solution to improve on South Africa's Land distribution dilemma.

Explanation of the Problem



From Colonial Dispossession to Democratic Reform

The extent of land dispossession during colonization and the apartheid regime in South Africa was by far greater than any other country on the African continent. The Dutch and British settlers began setting in South Africa around the Cape of Good Hope in the 1650's, after which they successfully spread inland – in part due to their procurement of guns, which the indigenous population had no access to. By the middle of the 20th Century, most of the land, including the best agricultural land was claimed by the settlers; indigenous peoples were forced to move from their ancestral lands and were resettled on poorer quality soil lands, referred to as the “homelands.” The entire indigenous population occupied merely 13% of the land in the country, which to this day has still remained largely underdeveloped, with a large percentage of the population on this land living in extreme poverty. Moreover, during the apartheid regime, millions of black farm workers and their families that worked on the private white owned farms were underpaid and lacked basic facilities as well as tenure security. By the end of the apartheid in 1994, 82 million hectares of farmland was owned by 60,000 white farmers, while over 13 million people remained poverty stricken on the “homelands” territories.

homelands—*lands with poorer quality soil*

History of Land Reform Policy in South Africa

Both the new government and the black population were optimistic at the end of the apartheid regime that the change in leadership would lead to a more racially equitable distribution of resources and would alleviate poverty. However, because the transition to democracy from 1990-94 was to a large extent negotiated, the dominant black nationalist party, ANC, led by Nelson Mandela, conceded the property rights and wealth already accumulated to the white minority, so that the new Constitution for the Republic of South Africa recognized the land ownership rights of the white minority farmers (Lahiff 2007). The government did however, put into place multiple policies to address the issue of land distribution and land ownership.

Section 25 of the Constitution and the Restitution Land Act (1994)

Section 25 of the Bill of Rights of the Constitution of the Republic of South Africa grants the state responsibility to carry out land reforms and grant specific rights to victims of past discrimination. The bill allows for the for appropriation of property for a public purpose or in the public interest, subject to just and equitable compensation to the land owners, and states explicitly that ‘the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources’. (Lahiff, 2007) However, the bill did not identify the mechanisms by which land distribution would take place. In this regard, there were a number of policies that have been adopted by the government to carry out redistribution of land and property from colonial white farmers to the disenfranchised black population.

Overall, there were three major types of land reform issues which the government attempted to address. The first was restitution, in which people or decedents of people unjustly evicted from land due to racially discriminatory laws or practice could reclaim their land holdings. The second was land distribution, which focused on distributing many of the white owned farmlands to the black population to alleviate the racialized distribution of resources. The third policy focused on tenure rights of the populations living in the “homelands” and the farmlands. The Restitution of Land Rights act of 1994 allowed black South Africans to submit claims for land compensation through deadline of December 31st 1998. A Commission on Restitution of Land Rights was established under a Chief Land Claims Commissioner and six Regional Commissioners. All legal claims were officially filed against the state, rather than

against the current landowners. The Land Claims Court, which was established to deal with land related-matters, granted three types of compensation for claimants, these were- the restoration of land under the claim, alternative land or financial compensation. Approximately 70% of the 80,000 claims which were submitted, have were successfully settled. The majority of these claims were made up of cash compensation for urban rather than rural land. However, by beginning of 2005, 9,000 rural claims involving millions of people remained outstanding (Driver (2007). Despite the backlog of claims, the Restitution land act has been the least controversial of the land reforms owing to its successful implementation in addressing the wrongs of the apartheid.

LRAD—Land Redistribution for Agricultural Development

The White Paper on South African Land Policy (1997) Market-Based Approach to Land Redistribution

One of the major first policy frameworks addressing tenure and land redistribution was the 1997 White Paper on South African Land Policy. It was within this policy paper that the government clearly laid out the necessity for land reform in order to “redress the injustices of apartheid; to foster national reconciliation and stability; to underpin economic growth; and to improve household welfare and alleviate poverty”. (DLA 1997) The government identified a number of economic benefits of redistributing land, including maintaining food security as well as reducing unemployment by facilitating family operated farms to sustain their livelihood. (Cousins; Scones 2009).

The mechanism through which the land would be distributed as spelled out in the Land Act was a market-based approach of the “willing buyer, willing seller” model. As Lahiff (2007) points out, the ideology behind the use of the market approach differed greatly from the primary conception of land distribution at the time of independence; the ANC’s *Ready to Govern* policy statement of 1992 as well as Section 25 of the Constitution, which advocated for at least below-market compensation to white farmers and at most, expropriation and other non-market mechanisms. Nevertheless, the white paper land policy ideally stated that poor people would be able to apply for grants and loans from the government to purchase previously white owned farmland from farmers who willing to sell through the land distribution program. Qualifying impoverished households with an income of less than R1500 per month could apply for a Settlement/Land Acquisition Grant (SLAG) of R16 000. This model has however, been criticized for transferring large tracks of commercial farmland to homesteads of subsistence farmers who have neither the experience nor the finances to produce commercially

Land Redistribution Agricultural Development Act (2004)

In order to address the issue of providing land to individual households which were for the most part participated in subsistence farming, in 2004 the SLAG policy was replaced by Land Redistribution for Agricultural Development (LRAD), which focused on giving grants to individuals (instead of household) and groups of people for more commercial purposes. LRAD differed largely from SLAG in that it removed the income cap and awarded grants from R20 000 to R100 000, which was overall more favorable to prominent black business people and group projects to invest in commercial farming. It also provides a more robust system of credit through official channels such as the state-owned Loan Bank. The policy also stipulates however, that recipients contribute in cash or in kind to in proportion to the grant they apply for. The increase in-group projects are in part due to the small size of the grant relative to the amount needed to purchase equipment and effectively run a farm.

While there have been discussions about the viability of the land distribution through LRAD and there have been a few changes to the policy, it still remains the

foundation of the current land distribution policy approach. Since July 2006 almost 1.2 people have benefited from the program with the transferal of 3.4 million hectares of land. While the figure seems considerable, only 43.6% of the land was transferred by redistribution program, with the remaining land through restitution (29%), the disposal of state owned land, (22.6%) and tenure reform (3.7%). (Lahiff, 2007) Moreover, given that some of the land distributed was government owned land, there has been less distribution of white owned farms than expected. Overall, the South African government has not reached its target for the land reform process which in 2004 was set at 30% of redistribution of white owned land. They have currently only redistributed 5%.

The government admits that about half the farms taken over by blacks have failed, usually because of a lack of money or skill. Some put the failure rate at 70%. Recent studies have revealed the limited impact of most land reform projects in terms of productive land use and household livelihoods (CSIR 2005; CASE 2006; SDC 2007). This has been attributed to many factors, but the most widely cited are inadequate or inappropriate planning, a general lack of capital and skills among intended beneficiaries, a lack of post-settlement support from state agencies, most notably local municipalities and provincial departments of agriculture, and poor dynamics within beneficiary groups.

Recent Developments

Militant Call for Seizure of Farmlands and Xenophobic Violence

One of the most important recent developments is the emergency of a radically militarized group of poor South Africans who advocate for the forced expropriation of white owned farms. Moreover, the group is lead by the President of the National Congress Youth League (ANCYL), Julius Malema, who openly defies both the legal restrictions against racial hate-speech as well as his own party's ruling. In the year of 2010, he sang the song "Shoot the Boer" at a youth rally and proceeded to announce at another rally in the Northern Cape that "This (SA) land belongs to foreigners" and that voting without owning land was useless. Much of his inspiration for inciting violent seizure of white owned farms seems to be drawn from the policies implemented by Robert Mugabe's ZANUPF party, which led to forcible seizures of white owned land as well as hundreds of violent attacks against white farmers. At a press rally in Zimbabwe, Malema applauded the country's land reform program and added that ANC President Jacob Zuma should not be afraid to implement the same policy. Owing to the wide support of Julius Malema and the seeming powerlessness of his party to remove him, the international group, Genocide Watch has placed South Africa at Stage 6 – "Preparation for Genocide," which is one away from stage 7 (actual genocide). The group cited the increasing xenophobic attacks against foreigners by unemployed South Africans over the past 3 years, as well as the increasing violence and hate speech against the white population in general, and white farm owners in particular. While the ANC party has openly attempted to discredit Malema, his wide spread support from the population continuously ensures his re-election.

LRAD Policy Reforms

In addition to fears of a possibly violent land reform movement eruption and the looming 2014 deadline in which the government had set its 30% land distribution target, the question of land reform has come to the fore of the political and policy agenda. The government has also begun to recognize the inadequate organization of commercial land as a threat to the food sustainability in the region. After decades of

self-sufficiency, 2007 marked the beginning of the country's legacy as a net importer of food.

In terms of policy, there have been a few major changes to the existing LRAD program. In 2006 the government introduced the Proactive Land Acquisition Strategy, in which the government purchased land directly from buyers through the market based system instead of granting applicants money to purchase the land. The government would then be able to lease the land to possible land beneficiaries who would have the option of purchasing the land after three to five years. This program was incorporated in response to the time lag and difficulty of beneficiaries obtaining grants to buy the land, but it is still based on the "willing buyer, willing seller" model in which the farmers are still have price control over the land they choose to sell.

The government also introduced the Land Agrarian Reform Project in 2007, which had been brought up on the 2005 National Land Summit agenda. The Land Agrarian Reform project focuses on the acquisition of land in order to provide long term-security to farm dwellers, farm workers and emerging communal farmers. However, as Lahiff (2008) argues, the policy tenants of LARD do not drastically alter the 2004 LRAD policy.

GDP—*Gross Domestic Project*

Focus of Debate

Pro-market Conservative View

In general, conservatives would argue for the preservation of the large-scale commercial agricultural sector, and for the importance of the market-based redistribution policy in order to maintain high levels of commercial farming and investment. They would argue that while the LRAD land reform process is slow, the need to maintain competitive prices for farmland is essential to attracting large investment for improving South Africa's industry. Conservatives would argue for the inclusion of black participation to dissolve social tension and create political stability, but would oppose the idea of increasing black participation within the farming sector as a means for their social empowerment. They would cite the fact that the Agricultural sector only represents eight percent of South Africa's GDP, which means that there may be more room for black empowerment in the other sectors. Moreover, they would argue that the land reform act thus far has been a failure in that more than half the commercially black distributed farmlands have failed due to lack of expertise and strategic planning. In addition to the financial constraints, the lack of organization on the part of the government to ensure the success of the farmers would lead the conservatives to question the very basis of redistributing land as a means of empowerment. In reply to market-based land reform skeptics, as pro-market critics the conservatives would argue that the market sector has been a more equal distributor from black to white than the state has been. According to Lyne and Darroch, the "Private sector has been a more efficient at redistribution land from white to black than the state. A total of 994 transactions to 'disadvantaged' owners in KwaZulu-Natal between 1997 and 2001, only 89, involving 45,121 hectares, were government-assisted. In contrast, 471 transfers involving 60, 234 hectares took place by means of private mortgage loans and cash purchases. (Walker) This view draws support from landowners and private businesses.

Liberal View

The liberals would argue for market based land reform and the commercial farming sector but with an emphasis on the necessity of including the rural black popu-

lation within the sector. The liberals would also focus on the need of government to increase spending and create a more robust management system in order to maintain the a high level of commercial production from black populations that obtain grants. The liberals would focus on using land reform to empower the 70% of rural poor through both large commercial “family owned” farms but might also caution using the speed of transfer as a measurement of the program’s success, rather than the success of the beneficiaries of the land grant. Overall, the liberals support the property rights of the landowners and argue for the ‘deracialization’ of the farming sector. Their focus is on finding ways to make the current market system more in ensuring not only the transfer of land but the success of farmers as well. The liberals also lean towards ideological arguments about the importance of ‘restorative justice’ through negotiation and the overall de-racialization of the agrarian system. They are also large proponents of the Black Empowerment Movement.

DLA—Department of Land Affairs

Anti-Market Based View

As Thackwray Driver argues in her 2007 paper on Land reform, opposition to the market-assisted land reform programme as a whole would raise four major aspects: firstly, that it is too slow and South Africa has been unable to meet its own targets; secondly, that it is ethically and ideologically wrong to expect victims of apartheid to contribute financially to buying back land stolen from them (and in some cases by implication, not punishing white farmers for stealing the land); thirdly, the market-basis of the programme means that it will not assist the poorest members of society; and finally, that it is based on a global capitalist “De Soto” ideology of individual property rights, which by its very nature discriminates against the poor, marginal groups, women etc. A sub-text of these complaints is that the programs are part of a global capitalist agenda of the World Bank to wipe out peasant farmers and promote large agri-business. They would state that the lack of financial backing of the program limits the amount and quality of land, which the poor can buy and would advocate for government expropriation of land at below-market prices. Finally they might argue that the market based land program has alienated the very people it was created to help. The system was created through a collaboration between the South African government, the white commercial farm owners, prominent black businessmen and the World Bank, without much input from the rural population. The Homelands Tenure land reform act, which was meant to involve the communities in granting tenure, was biased towards rural chiefs, many of whom were instated during the apartheid regime and therefore marginalized many community members, particularly unmarried women. They would argue that there is little incentive for farmers with good quality saleable land to opt into the land redistribution program, owing to the extra bureaucratic steps of sale, which includes having an evaluator from the Department of Land Affairs (DLA), place a ‘market’ price on the land based on similar land in the area. If the DLA places a price on the property less than the owner is willing to sell for, the landowner has the right to turn down the offer. In addition, the auction-based system is less likely to favor the beneficiaries who could obtain grants, because the grants are not robust enough to cover the costs of obtaining a full piece of good quality land, and farmers are often not willing to sell off portions of their land.

Radical View

The radicals promote a more radical (‘populist’) version of land reform. In addition to citing many of the reasons that the anti-market group holds, they place much of their emphasis on the idea of restorative justice. They draw support from the mass popular mobilization against apartheid, in which the ANC played a central role,

and to a large extent have been spurred on the land reform in Zimbabwe and by the ANC Youth Leader Julius Malema. As Lahiff notes, “Their position calls for direct intervention by the state to effect a widespread redistribution of land to the poor and landless, often accompanied by calls for minimal compensation to landowners.” (Lahiff 2007) This position undoubtedly enjoys widespread support among the organizations of the poor and landless, such as the Landless People’s Movement, NGOs associated with the former National Land Committee and the newer Alliance of Land and Agrarian Reform Movements (ALARM), as well as the grassroots membership of the ANC.

ALARM—*Alliance of Land and Agrarian Reform Movements*

Presidential View

The President Jacob Zuma acknowledges the past failings of the land reform program. In an address to the nation in 2006 he stated that the government was going to set the prices for farms being sold on the market but he has since not created a policy that would expropriate the land in that manner (Lahiff 2008). In some ways Zuma’s views overlap with the conservative and liberal opinions. One reason why he may not have carried out the expropriation of land was for fear that it would scar away investors, which are particularly important to South Africa’s increasing globalized economy. He has therefore upheld the market based system while trying to make it more efficient. It is important to note that he opposes the radical views of Julius Malema and has publicly reprimanded Malema’s outbursts. However, as the African Research Bulletin article suggests, Malema is widely supported by the South African Youth, which means he is an important political asset to Zuma who wants to be re-elected as President for a second term.

Interest Groups Perspectives

The World Bank

The World Bank supports the market- based policies of South African land reform. The land reform policy, which it aided in designing in 1994, is much in keeping with the neoliberal structural adjustment policies, which the bank has globally promoted. In its 2002-3 Policy Research Report, the World Bank acknowledged the low pace of land distribution under SLAG and LRAD and suggested that improvements can be made through greater “community-involvement” and involvement of the private sector. According to Lahiff (2008), the World Bank also advocated for a number of policies, which the South African government did not implement during the land reform. These included the introduction of a land tax to discourage speculation and dampen land prices, the allowance of beneficiaries to design and implement their own project and finally to promote subdivision of large holdings. However, none of the above mentioned the government-implemented policies. Therefore the World Bank upholds the market-based framework but advocates for more community involvement and freedom of choice of projects as well as increased tax regulation to dampen the prices on property.

Center of Development and Enterprise

As Lahiff (2007) argues, this business-aligned corporation focuses on ‘de-racialising land ownership in commercial agriculture, and “normalizing” the countryside’. In somewhat agreement with the conservative view, it argues that the “needs of the rural poor and landless can be best addressed within the urban and industrial sec-

tors, and in the development of the existing black rural areas, that is the former homeland, rather than through any restructuring of landholding or of the large-scale agriculture sector.

Possible Solutions

Annun—the Latin word for year

Maintain the Current Policy Structure raise enough money to support it.

President Jacob Zuma argued that lack of funding to sustain the program and allot larger grants was one of the major limiting factors within the land reform program. One possible solution to this problem would be to redistribute resources within the government's budget in order to finance more land for the PLAS program. As Cheryl Walker (2005) notes, the budget historically allocated to land redistribution has been tiny in comparison to other government areas. Since 1994, the Ministry of Land affairs had allocated less than .35% of government budgetary spending per annum, until 2003 when it reached 1% mark. As Walker notes, compared to the R15.27 billion rand allocated to the department of defense in 2001/2 year, the total amount allocated to DLA from 1994 to 2004 was R7.3 billion.

Re-Assess the Current Market-based Structure

One possible solution which opposes the conservative notion would be to do away with the conservative model of maintaining a large-production capitalist view of commercial farming in favor of models which aim at allotting more subdivisions of properties to resource poor families in order to suit their needs. While this option would be in line with the World Bank's view of creating more subdivisions, the African Union would have to do more research on the economic viability of eliminating a considerable amount of commercial land. One other option to re-structure the market would be to give the government more power to buy lands from white owned farms at a below-market price. This would ensure that poor farmers would be more likely to afford access to land.

Provide More Expertise to Beneficiaries of the Grants

One of the major criticisms of the current land distribution program is that many of the farms failed due to lack of expertise. A possible solution would therefore be for government to focus on developing robust training programs and monitoring both the individual and group land holdings more closely in order to maintain the quality of the program. However, in order to effectively carry out training and accountability programs, the government's DLA would have to increase its capacity, particularly as evidenced by the backlog of restitution claims still within its system.

Questions the Policy Should Address

How should a country such as South Africa address land distribution post-apartheid? Historically, at the time of the apartheid what options did the new apartheid government have in terms of dealing with the property rights of apartheid regime farmers? What are the current strengths and weaknesses of the current land reform policy in South Africa? Can the current policy in the long term, provide the foundation for a new social and economic order in the countryside, or will it further polarize racial groups and economic classes? How might the policy be altered to improve it? If the

policy cannot be saved, what other policies could be implemented in order to create economic empowerment as well as alleviate social, political and racial tensions? Given the current situation with Julius Malema, how can the government ensure the safety of its population.

Summary

The issue of land reform in South has been contentious issue ever since the fall of the apartheid regime. The current market-based approach, which the government adopted, has largely been inefficient at both meeting the government targets for the distribution and the success of farmers on that land. Given the latest radicalized calls for the violent expropriation of white farmland and the subsequent monitoring of the country by Genocide watch, the importance of coming up with a policy to resolve this contentious issue is more important now than ever before. It is up to you, the African Heads of State, to navigate the vying interests of various groups in order to come up with a policy that will bring future peace and equality to the South African nation.

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