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An occasional publication by the  
Centre for Development and  
Enterprise reflecting discussions  
held on key national issues

## **FARMERS' VOICES**

### **Practical perspectives on land reform and agricultural development**

OVER the past few years CDE has done intensive work on land reform, aimed at identifying key issues and obstacles in this vital – and highly contested – arena, and presenting the government and other stakeholders with alternative ways of achieving the land reform goals set out in the South African constitution.

As part of this process, CDE convened a round table discussion in October 2007 which brought together a cross-section of farmers and other role players in agriculture to relay their experiences of land reform, and help identify a way forward for land restitution, redistributive justice, and sustainable agriculture.

The round table was attended by 24 participants, not counting the facilitator and CDE staff, drawn from farming regions from across the country, including KwaZulu-Natal, Limpopo, Mpumalanga, the Free State, Eastern Cape, and the Western Cape. Most were farmers, with a good mix of small- and large-scale agriculture, and an equally good distribution of established white farmers and emerging black farmers. Four participants were drawn from the finance and development industries, one from the Land Claims Court, and five from farming co-operatives or commercial farmers' associations. All have dealt, in one way or another, with land reform issues in their respective areas.

Most agreed to participate on condition that their contributions would be confidential, and they would not be quoted by name in any subsequent publication. Therefore, except for the opening speakers, CDE agreed not to attribute specific statements to specific participants.

In opening the round table, Ann Bernstein, CDE's executive director, said this was done in order to encourage participants to speak as freely as possible. "Too often, in South Africa, we're not entirely honest with each other. We want to encourage everybody to feel free to say what they really think."

In his introductory remarks, the facilitator, Jeff McCarthy, said land reform was a complex arena, marked by major regional and sectoral differences. In the course of his research, he had also found a differentiation between what people said in public

and in private about the domain in which they were operating. This trend had increased during the past two years, and made researching land reform more complicated than it used to be. This was one of the reasons for convening the round table.

'We are hoping for more candour than is sometimes possible in a situation where people are wondering about their public positioning as opposed to their private positioning, and what might happen to them if their private positions were too widely known.'

## Participants

**Fikile Charles Bam**, judge president, Land Claims Court

**Ann Bernstein**, executive director, CDE

**Annelize Crosby**, legal adviser, Agri SA

**Dr Theo de Jager**, chairman: land affairs, Agri SA

**Hendrik de Jongh**, managing director, SAPPI Forest Products

**Neil de Smidt**, director, Buhle Farmers' Academy

**Amira El Ibiary**, project officer, Friedrich-Naumann-Stiftung

**Dries Enslin**, property manager, ZZ2

**Anthony Evans**, chairman, Rhys Evans Group

**Dr Stuart Ferrer**, University of KwaZulu Natal (Pietermaritzburg)

**Bruce Galloway**, director and executive committee member, SA Cane Growers' Association

**Barbara Groeblichhoff**, project manager, Friedrich-Naumann-Stiftung

**Eric Johnson**, farmer, Badfontein Land Owners' Association

**Anne KettleDas**, member, Vuki Farming

**Sidney Le Fleur**, member, Ericaville Farming Trust

**Bongani Linda**, director and executive committee member, SA Cane Growers' Association

**Dr Tshi-tshi Mbatha**, chief executive officer, Inkezo Land Company

**Dr Jeff McCarthy**, consultant to CDE

**Justice Mhlangu**, section manager: small grower section, Illovo Sugar

**Nthato Motlana**, executive manager: business development, Hans Merensky Holdings

**Linda Nghatsane**, farmer, De Hoop Farm

**Duncan Pringle**, managing director, Phatisa Equity

**Gert Saaiman**, manager, Renosterrivier Land Reform Project

**Ian Scott**, chairman, TSB Cooperative Founding Committee

**David Shepherd**, researcher, CDE

**Cita Simthembile**, property manager, Tongaat-Hulett Sugar

**Winston Smit**, director, SAPPI Forest Products

**Dave Thomson**, general manager, Inkezo Land Company

**Gerrie van der Merwe**, chairman, Badfontein Land Owners' Association

# Issues and challenges: three perspectives

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## Anthony Evans

*Anthony Evans chairs the Rhys Evans Group, a large agribusiness based at Viljoenskroon in the Free State. He describes his attempt to launch a land reform project in this area.*

As most of you know, the Northern Free State supports extensive summer crop farming. Farming is on dry land, and therefore tends to be on a large scale. Those of us who are in the industry doubt whether small-scale farming will ever succeed in this region.

I was keen to contribute to the government's stated goal of transferring 30 per cent of agricultural land to blacks, and have therefore made several attempts to initiate a land reform programme involving my own and other properties. I should mention that there are no land claims in our area, which makes it very different from many other parts of the country where land claims are a big issue.

My first attempt (some eight to ten years ago) was to transfer a particular farm to a small group of beneficiaries, comprising people with very good farming and farm management experience as well as a few business people whom we thought could play an important role. The idea was that my company would initially co-manage the farm, then play an advisory role, and finally just a consulting role.

That project failed due to a lack of funding. At that stage the LRAD<sup>1</sup> grant was allocated on a per capita basis, and there was no way in which it could be made to cover the costs of buying the farm or contribute towards working capital.

Some years later, I made another attempt to transfer land to black owners. This time I decided to follow Department of Land Affairs policy at that stage and proposed a transfer to a large group of beneficiaries, which would have included all the farm workers and their families. The farm would have been run by an experienced manager. Again my company would have initially co-managed the operation, helped to train a management board, and eventually reduced its involvement to a consultancy role. The department rejected that proposal on the grounds that there would be too many co-owners, so that was a further setback.

Finally, and out of the blue, the department proposed to buy the farm that I had been discussing with them, which it then did, some seven months ago. Since then I have been in constant discussions with land affairs officials about their plans for the farm. I have made numerous proposals. All of them have been either rejected or ignored, and the farm will lie idle for the next 12 months. That's a thousand hectares.

So that's my experience. It's not a very happy one, because my objectives have not been achieved, and I have felt fairly frustrated as a result.

The issues that stand out – for me at any rate – are the differences between the political agenda and what I would call the farming agenda: the ideas of job creation, poverty alleviation and so on versus a commercial farming approach, which really makes communication quite difficult. Changes in land affairs policy have also complicated the situation.

Certainly in the Free State there is a view that

'Land affairs officials do not seem to have much authority and are not allowed to exercise their own judgement on particular issues, which has tended to paralyse decision-making'

Pretoria rules; land affairs officials do not seem to have much authority and are not allowed to exercise their own judgement on particular issues, which has tended to paralyse decision-making. Moreover, most land affairs officials and members of the provincial government dealing with agriculture do not have a farming or agricultural background – they do not have any farming qualifications, and know little or nothing about farming. For example, the MEC and chief director of Land Affairs did not understand the seasonal nature of maize farming – that if decisions were not made ahead of the summer planting season, the farm would lie idle for 12 months.

By contrast, in my experience officials of the national Department of Agriculture have a very good

grasp of agriculture, and in my view would be better able to make decisions about land reform projects of this kind. I think the ability and capability of provincial land affairs and land claims officials is an issue that needs serious attention.

### **Bongani Linda**

*Bongani Linda farms with sugar cane in the Stanger area on the north coast of KwaZulu-Natal. He is a director and executive committee member of the South African Cane Growers' Association, and a member of the development committee of the South African Sugar Association. The farm he bought in 2002 and has developed since then is now subject to a land claim.*

In contrast with the previous speaker, my experience has generally been a very happy one. Because of the government's new land reform policies, I own and work a farm which I bought in 2002 from Tongaat Hulett.

I've been drawn into farming, the sugar industry, and the farming community by my miller and by neighbouring commercial farmers. When I listen to stories from other agricultural sectors and other farming regions, I feel I have probably been lucky to get involved in sugar cane. For example, at the point

'I don't see any provisions in government policy for a person like myself, a land reform beneficiary who now has a pending restitution claim on his property'

of entry, our miller helped to package the deal, and we got in with a minimum of problems. Also, during the first five years, the interest on my loan was subsidised by my miller. There have been problems here and there, but they have been minimal.

I and other new entrants have received a lot of industry support, including bookkeeping services, extension services, and training facilities, and because of that it not as difficult to enter this sector as it is to enter others, except for the natural prob-

lems which most or all farmers experience, and the fact that the returns from sugar cane farming are currently not that enviable.

I've also been able to expand my operation. I have bought a neighbouring farm, and now have 180 hectares under cane. It's not a very big operation, but I'm happy with it for now, and I'm hoping to find an opportunity to expand even further.

I have benefited from government policy in the form of an LRAD grant at the point of entry. I've also benefited from CASP<sup>2</sup> funding for replanting some of my fields, which I received via my miller, and for the purchase of farm inputs, in which the local office of the Department of Agriculture played a vital role. So I'm a happy man when it comes to my getting into farming.

However, my farm is now subject to a land claim. And I am saying, what happens from here? Do I continue investing in this property? How do I prepare myself? What do I say to my wife and children? And if I lose my farm, where must I go, and what will I do? These are the questions that worry me for now, save for the general problems experienced by all farmers.

When it comes to land reform, the biggest problem for me personally and a few other farmers in the area whom I've spoken to is that while I have benefited from the government's initiatives to redistribute land, and reform the economy and the country, I have now been placed in a situation where I may be displaced. I don't see any provisions in government policy for a person like myself, a land reform beneficiary who now has a pending restitution claim on his property.

This is an overriding concern in my area, to the point where one of my neighbours has said that it seems as if the government doesn't care for us – as individual emerging black commercial growers – vis-à-vis the community claims that need to be settled.

*Editors' note: The land claim against Bongani Linda's farm was gazetted in January 2008.*

## **Bruce Galloway**

*Bruce Galloway heads the Bruce Galloway Group, a large cane growing company operating near Stanger in KwaZulu-Natal. He is a former chairman and vice-chairman of the South African Cane Growers' Association, and at the time of the Round Table was a member of its board of directors and executive committee. He has been closely involved in land reform efforts in the sugar industry for more than a decade.*

Land reform in the sugar industry started way back in 1996. It actually started earlier than that, but at that stage there were no policies in place enabling us to pursue it. In 1996 the milling companies started a major divestment of their land – large farms were subdivided and the smaller units sold to aspirant black farmers. We encountered major logistical and bureaucratic problems, and as a result formed the Inkezo Land Company.

The sugar industry formed and funded that company primarily to transfer land from whites to blacks, and to ensure consistent and safe transfers to viable business units, in an effort to fast-track land reform. At this point, 13,6 per cent of freehold land in the sugar industry is owned by black farmers. This has all been done on a willing buyer/willing seller basis, and in many instances by utilising LRAD.

By and large, LRAD has worked very well in the sugar industry. It has enabled aspirant farmers such as Bongani to buy a farm and start farming – the grants were used as deposits, and we got commercial banks to provide the balance. But sugar differs significantly from other agricultural sectors. Banks have the security of getting their money back, because the cane has to go to a mill, and there's a pipeline that can be tapped there. It's not like maize, which you can consume or sell privately – you can do nothing with sugar cane other than send it to a mill.

But it's worked very well. More than 300 black farmers have been set up under this model, and their farms are economically viable. There's a question of whether they should be slightly bigger, but by and large Inkezo has worked very well. Unfortunately, since 2005 this process has been impeded by the fast-tracking and gazetting of land claims.

Ironically, you can't get an LRAD grant today unless there is proof that there is no claim on the prop-

erty in question. There are all sorts of administrative problems within the Land Claims Commission, which are causing a lot of uncertainty in the sugar industry.

We believe that no less than 50 per cent of all sugar farms are subject to land claims. Thus far, only 4 per cent of land claims have been settled in KwaZulu-Natal, and 29 per cent in Mpumalanga. These are horrific figures. Quite frankly, it's a pathetic report for the Department of Agriculture and Land Affairs if it has only been able to settle 4 per cent of claims in the ten years since land reform began.

I was privileged to appear before the parliamentary portfolio committee on agriculture and land affairs some five or six years ago, when we told them what we needed (and it was billions of rands at that stage) to meet the 30 per cent land redistribution target.

We're not afraid of this target; we can meet it quite easily. We just can't open up the land at the moment, because it's all blocked up in the restitution process. We've got willing sellers and willing buyers; we've got the banks lined up; and we've got

'Some of our members have been interacting with the regional land claims commissioner for ten years without the claims involving their properties being settled'

the models to make all this work, but neither LRAD funding – a vital component of the process – nor additional bank funding will be unlocked until clarity is reached about claims over the land in question.

Unfortunately, some of the land transferred to emergent farmers and partly funded by LRAD grants are also subject to land claims; some emergent farmers who have come through and developed farming skills have already lost their farms, and other claims on land now owned by emergent farmers have been gazetted. And quite frankly, I think this whole process is going backwards, which is very sad for us. So you've got a despondency, and Bongani is starting to feel that now, where his farm is under claim. Where does he go?

Some of our members have been interacting with the regional land claims commissioner for ten years

without the claims involving their properties being settled. I'm focusing on the commissioner and his office because I think we're seeing that as one of the impediments to further rolling out this process, and trying to grow that 13 per cent up to the 30 per cent or 40 per cent which we would like to get to.

The interpretation of the Restitution of Land Rights Act is another cause for concern. Policies tend to change depending on which official in the office of the Regional Land Claims Commissioner one talks to. My own farm is under claim, and I'm a willing seller. It is part of a package where we have come together with the claimants, and reached an agreement with them. We bypassed the commissioner because we were making no progress. The claimants would get

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70 per cent of the land as well as downstream activities, including shares in businesses that we operate as farmers, and the commissioner said to them, don't take the deal, we'll get you 100 per cent. Now I don't know where that 100 per cent sits, but quite frankly, if one goes that route, you're losing all the experience built up by the established farming community, and all the potential mentorship. If you're trying to create an integrated farming community, that's not going to happen. It's a lose-lose situation.

So the land claim process is a problem. The quality of evidence and the independence of the regional commissioner also leave a lot to be desired. The commission lacks administrative capacity, as well as transparency.

All this is having an adverse impact on the business of farming. Many farmers who are under claim – we're looking at 50 per cent in the sugar industry – are saying, we're not making any new investments, we're cutting back on our replant programmes, we're just doing the bare minimum to keep on ticking over. That's not a good development. And when land claims are finally gazetted, they can still take years to

finalise. Ours was gazetted in 2005, so you are already looking at two years, and already things on the farms are starting to deteriorate.

I concur with Anthony Evans that there's no understanding of the timing or the economics of farming. We've recommended all along that sugar farms should be taken over in April or May, which is the start of the harvesting season. That doesn't happen; they are taken over just before the big inputs have to be made, and after a lot of the revenue has been taken by the farmer.

We don't believe that one should have a lose-lose situation. If there's a claim, it can be disputed in a court of law, which means there will be a loser. If the present owners lose the case, they will sell and move out, and the claimants will be left behind with no mentorship, which means they lose out too. And if the farmers win the case, their neighbours will often not be happy, and will make their lives uncomfortable anyway. So there's another lose-lose situation.

So we came up with a proposal that said, look, who wants to sell? Let's put that on the table. We got that together, identified specific farms that claimants wanted in a given area, bearing in mind that these were community claims, and said, okay, here's a package. Some farmers will stay behind, provide mentorship and training, and assimilate the emergent farmers into the established farming community, not just into the farming operations themselves. We will ensure that we retain and transfer skills, and provide post-settlement support.

But all that seems to have been rejected because the decision-makers don't really understand farming. Many claimants don't want to farm; they only want a revenue stream from farming. So there's a great deal of uncertainty out there. There's no doubt that the government is acting in silos – the Department of Land Affairs, the Department of Agriculture, and the Regional Land Claims Commissioner all act in isolation of one another, and land is transferred without any cognisance of when the funding will be available to facilitate it. So it really is a debacle from that point of view. Land, I think, has been politicised to the detriment of the industry.

We still have some positives. We've got willing people out there. We've got farmers who are willing to sell, who are willing to stay on, mentor the new owners, and transfer skills. We've got willing claim-



ants who want to make the process work. We've also got some willing staff in the offices of the Regional Land Claims Commissioner and the Department of Agriculture. So you might say, why are we having problems? I think you have to ask yourself who is the problem, who is making the rules, and who is bringing these external influences to bear that are blocking and impeding this process. Is it the National Treasury? I don't know.

We don't have problems with valuations in the sugar industry. The valuations are out there, and those made have been accepted. As far as we are aware, no farmers are saying they want more money. So we've got willing sellers. In most cases, except when the land involved includes beach frontage and

has more than agricultural value, the valuations are acceptable and market-related. Cane growers' associations and their members are generally committed to the whole process of land reform. Mentors are available to stay on in the region and to assist. So where does the problem lie?

We think there's something bigger. I know the government talks about a third force. I don't know what it is, but we have a lack of transparency, and we desperately need that to change, because the rural areas are dying from a lack of investment and a lack of economic activity. The participants are willing, but there's a problem somewhere. We haven't experienced problems in accessing government funding; the problem lies on a different level.

## Perspectives from the timber industry

*Two representatives of the timber industry were asked whether the experiences in the sugar industry resonated with them.*

### First representative

Forestry differs from the sugar sector in that we have very long-term crops – anything from ten to 30 years (which is still short in international terms). This is where your problems start. Given such a long lead time, you need huge areas of land to be viable. At best, the planting of trees is only marginally viable. My rule of thumb is that an individual farmer needs between 5 000 and 10 000 hectares to have a viable plantation, subject to what your particular market is, the distance to that market, and several other variables. By contrast, forestry land claims average 1 000 to 2 000 hectares.

My company's stance is that where a land claim has been lodged, obviously we want to see whether that claim is valid. That's the first stumbling block between us and the Land Claims Commission. The commissioner believes that when a claim has been gazetted, it's immediately valid; however, our research has shown that this is not always the case.

The second problem is the extent of claims. If

you have a farm of 5 000 hectares, the commissioner believes the claim covers the entire 5 000 hectares, while in many instances rights losses by claimants cover in reality only a fraction of the area. The commissioner is of the view that all claims cover the entire title deed. So this is another area of conflict with the commissioner.

There are also differences over the interpretation of the rules, and these change as they go along; among other things, the rules are interpreted differently in Mpumalanga and KwaZulu-Natal.

'The commissioner believes that when a claim has been gazetted, it's immediately valid; however, our research has shown that this is not always the case'

And then one finds that from the commissioner's side they tend to look at extracting maximum benefit for the community – taking 'maximum juice' out of the business, as they call it – sometimes to the detriment of the business itself. The commissioner shows no interest in the long-term sustainability of

the business. As the commissioner has indicated on numerous occasions, his performance is measured in terms of the number of hectares transferred, and nothing else. Therefore, an understanding of the business is lacking, and there is no vision of the well-being of the claimants post transfer.

So if you start developing post-settlement models, your integrity and also your knowledge of your own business is called into question.

I must say that, as the commissioner's staff begins to understand the business, they also start coming up

'In the interim the asset is neglected and deteriorates even further, to such an extent that the forestry business is for all practical purposes destroyed'

with proposals and throwing some ideas around. For me, that is when things start moving. However, this is a very slow process.

I have also found that the objectives of the commissioner and the community are not always the same. Sometimes the community doesn't want to be in forestry, but the commissioner insists on this. For example, a plantation may have hardly any infrastructure and may be located about 100 kilometres from the nearest town, which makes relocation just about impossible; however, the commissioner will insist that the community be resettled there. To overcome this communication gap, the sooner you start talking to the community the better.

Once you start packaging the deal, that's where things start crystallising. But finalising the deal and completing the administrative process can take a long time. Our experience has shown that during this time lag, which can be up to three years, the assets, especially those on private farm land, deteriorate. My company, on the other hand, is continuing with its normal operations while land claims are being resolved.

When the new owner eventually takes ownership, a significant investment is required to place the business on a sound footing. The new owners have no capital or access to capital. Although the state is supposed to make funds available, they take months

to be released. In the interim the asset is neglected and deteriorates even further, to such an extent that the forestry business is for all practical purposes destroyed. This is detrimental to the industry and the thousands of jobs it provides.

Given that forestry is a long-term industry with long term-growth cycles, and supports a large number of jobs, I think one has to make a success of land reform, as importing timber to support the processing plants is not economically viable. But currently I don't think everybody is on the same page. We don't have the same recipe. We all say we want to be at point B, but do not agree on what steps need to be taken to get us there.

During negotiations the commissioner uses fear tactics by threatening expropriation. I would say that one needs to negotiate in good faith, understand the business, know the constraints of the business, and see what the benefits are for both parties. But this is clearly not happening.

As with sugar cane, if you grow the trees, there are downstream operations that will utilise your product. The market is secure; however, the commissioner shows little interest in the survival of your operation. The commissioner also has a very negative attitude towards corporates; he is of the view that corporates will exploit the new land owners, and pay very low prices for their timber. He does not believe that corporates will pay market-related prices, despite their assurances to the contrary. There is a lack of trust between the various parties, which is only reduced through constant interaction. It is never eliminated, which ultimately leads to long delays in finalising land claims. Some 30 per cent to 40 per cent of land in the forestry sector is subject to land claims, but to date hardly any have been settled, for the reasons I have outlined.

Lastly, 2008 has been set as a deadline for settling all land claims. This won't be achieved, which is another worrying factor. But the biggest worry is that, according to the commissioner's staff, there are still claims that have not been gazetted. Their extent is not known, and we don't know when this will be made known. That also makes it more difficult to put together post-settlement packages, because you may exclude land that could make a package viable. So there is still a great deal of uncertainty about how we should move forward.



## Second representative

Our timber operations are faced with very similar challenges to those mentioned by the previous speaker. My experience in Limpopo has been that a great deal depends on one's relationship with the Regional Land Claims Commission. And it's the good faith and the rapport which one creates that really starts breaking the deadlocks, and allays the fears that companies or operators tend to have.

It's a personality issue, which is unfortunate because then the situation will differ from one province to another. Our operations are extensive – they stretch from the Eastern Cape to Modjadjiskloof/Magoebaskloof, and we find that circumstances differ in every province.

We were one of the first companies to go through a privatisation process in forestry in the Eastern Cape. As a result, we don't own the land we operate on in the Eastern Cape; most of it is leased from trusts. In the north it's different; there are claims on that land. But we've come up with business proposals which we have put to the Regional Land Claims Commission, and they have been warmly received. We haven't signed or finalised any of the proposals that are on the table, but we are very encouraged by the communications from the regional commissioner.

The regional commission has taken some of our cases to the courts, and they have ruled not really in

favour of the claimants, but the claimants have been successful in claiming a small portion of a big operation. We then went back to the commissioner and said, these are not commercially viable units. Eight hundred square metres for five families on a farm of 2 000 hectares really doesn't make any business sense. And after the interactions that we had with him, he asked whether we would be willing sellers of a viable unit to the claimants. That's where we are now, and it's that kind of interaction that one has.

The problems lie in finalising these deals. I doubt that the deadlines will ever be met. As much as the intentions are good, it will take us a while to conclude these deals. But I believe it is more a relationship

'One of the key problems in respect of land reform is that various government departments do not seem to have the same objectives'

issue, which is unfortunate, but one has to have that with the regional commissioner, and not only him but the claimants too. Don't forget that at the end of the day it is the claimants who will probably be successful in owning that land, and who are going to be your landlords. So it's all about the relationships that one builds. But I believe the situation can be resolved.

## Discussion

*Several themes emerged in a general discussion among the participants, partly in response to what the speakers had said, and partly about other issues which they believed needed airing in their own right.*

### **The clash between political and farming imperatives**

A participant who is helping to facilitate land reform in the sugar industry said his organisation was actively involved in helping aspirant farmers to buy

land. It was focusing on willing buyers and willing sellers, but was also experiencing the constraints that had been mentioned previously.

'We are hoping that by 2014 we will have helped the sugar industry to meet the target of transferring 30 per cent of its land to new black owners. But the pending land claims have made this almost impossible. We've been trying to work with the regional land claims commissioner and the Department of Land Affairs, but it's very difficult to move forward. This is the scenario that Bruce Galloway and Bongani Linda have already highlighted.

'One of the key problems in respect of land reform

is that various government departments do not seem to have the same objectives. When you look at the Department of Land Affairs and specifically the Land Claims Commission, the focus is on transferring land to claimants because they have a right to it. This is the whole issue of redistributive justice versus sustainable economic development. Because when you listen to those who are concerned with the sustainability of an industry, or the agricultural sector as a whole, they are saying, we need to feed this country, and continue to contribute to its overall development.

‘When you meet with the claimants, they are very excited about the fact that they have accessed their land, but their aspirations may not necessarily be about sustainable agriculture. They feel they have arrived because they have gained access to their land. Then the land claims commissioner pushes them to engage in farming. In some cases, people want cash rather than land. But the commissioner will say no, you should actually gain access to your land so that you can use it so that you can have a future and farm sustainably.

It’s very difficult to communicate about these

‘The Department of Land Affairs has bought some of this land, probably to the tune of R70 million. In 12 months, those farms have been reduced to grass and weeds’

issues. Everybody wants to play it safe; no one wants to say anything wrong. What’s right in my community is not right in your community. So those are some of the issues: how do we move forward and talk about these issues professionally, and also join it to our national agenda and say, we are moving together, we are creating win-win solutions, because we need one another, even after land reform or after the transfer of hectares.’

Another participant elaborated on the same theme in respect of a case study of a valley in Mpumalanga which is small but very fertile. About half the available land had already been transferred, and ‘every square inch’ of the remainder was under claim. As a result, farms were lying idle. ‘The Department of Land Affairs has bought some of this land which

has not been gazetted yet, probably to the tune of R70 million. Unfortunately, in 12 months, those farms have been reduced to grass and weeds. There is nothing left on those farms.’

Another participant said although part of the delay was caused by ‘rule from Pretoria’ and top-down bureaucracy, the problem went much deeper. ‘The land claims commissioner only buys land; he does not buy equipment, or improvements such as pack houses, which are an integral part of any banana or citrus operation. Then the land claimants are organised into trusts. Tribal authorities are organised into legal entities, and the claimants are beneficiaries of those trusts. So what happens is that the commissioner buys the land, transfers it to the trust, and tells the land claimants, there’s your land.

‘They don’t get any working capital. There hasn’t been one successful application for CASP funding, funds from the Land Bank, or any other institution. There are also huge encumbrances on the title deeds or trust deeds under which those properties are held. I haven’t seen one of those documents, but I’m being told that the land claimants are not allowed to sell or encumber those lands at all. In other words, they cannot offer that land as security for working capital to farm the land. So now they sit with farm land that is valued at R60 000 and R70 000 a hectare. You cannot have a break of even two weeks in cultivating those crops, because you might lose them entirely.

‘That’s why we tried to form a co-operative in partnership with a local milling company to put up our own farmers’ bank in order to finance the small-scale growers. But because of lack of access to working capital their yields have been reducing since 2000, and many of them are in big trouble. And those very people are now the claimants of the old commercial land which they cannot sell (see box: **Challenges in Mpumalanga’s Nkomazi region**, page 11).

Another participant asserted that the problem lay at the top level of government: ‘Our own government doesn’t take land reform seriously. Someone said it does, but it actually doesn’t, otherwise you wouldn’t have this quick rotation of minister of agriculture and land affairs. How many ministers have we had? And none of these people knew anything about agriculture or farming.’

Other participants said the situation did not improve further down in the departments of Agri-

## Challenges in Mpumalanga's Nkomazi region

The Nkomazi region lies in the 'Maputo Corridor' in the Lowveld in Mpumalanga. It has a population of 430 500. Mpumalanga produces 15 per cent of South Africa's total agricultural output in the form of maize, sugar, citrus, tobacco, bananas, potatoes, beef, mutton, pork, milk and chickens.<sup>3</sup> Nkomazi itself has been described as 'South Africa's food basket', and the area is said to fall in the top one per cent of agricultural potential in the country. Prominent towns include Malelane, Komatipoort, Hectorspruit, Marloth Park, Kamhlushwa, and Kamqhukheza.<sup>4</sup>

The region comprises two very different areas. The northern part – largely owned by white farmers – is characterised by commercial farming. It produces mostly sugar and fruit approaching a value of R1 billion a year, accounting for almost a quarter of Mpumalanga's total agricultural production. Forty per cent of this is exported.<sup>5</sup>

By contrast, largely as a result of forced removals associated with 'homelands development', the southern part is underdeveloped. Economic activity is very limited, and does not provide for local needs.<sup>6</sup>

By the end of 2007, land redistribution was beginning to substantially blur the historical distinctions between the white north and black south of Nkomazi. It is estimated, for example, that previously disadvantaged small-scale farmers who have benefited from land reform are now producing up to 23 per cent of the sugar cane in the region.<sup>7</sup>

However, according to the revised 2005/06 Nkomazi Integrated Development Plan, 'a larger threat (to inclusive housing and land ownership than budgetary constraints) is posed by the ever present possibilities for conflict among community-based organisations. A distinct lack of co-ordination and negotiation was identified, and had a severe impact on the finalisation of projects. The projects were furthermore delayed by the length of time required for the transfer of state land to the council.'<sup>8</sup>

In March 2005 it was announced that Mpumalanga's flagship land reform project, Inala Farm near Malelane in Nkomazi, was being liquidated after accumulating debts estimated at more than R20 million. Inala beneficiaries, a group of former labourers, began pressing alarm buttons about five years

before, but with little success. They complained to the DLA that management refused to show them financial statements, and that they were still treated as labourers, earning R500 a month.<sup>9</sup>

Besides the well-publicised LRAD beneficiary scheme resulting in some successful small-scale sugar and fruit farming in the Nkomazi region, and the Inala failure, Mpumalanga is famous for the Greater Tenbosch Land Claim gazetted in 1999, involving 287 farms amounting to 150 000 hectares. This includes luxury lodges and estates, sugar cane mills and plantations, and citrus and tropical fruit plantations.<sup>10</sup> Many farmers and land owners agreed to market-related compensation for their land which paved the way for the settlement of the beneficiaries.

The Tenbosch claim includes an area outside Mjejane (previously Hectorspruit) settled by the Luggedlane community. It was finalised by handing over a 3 800-hectare farm worth R24 million to the community, which had signed a memorandum of understanding with Hanrob & Associates to develop a five-star ecotourism destination. The entire community will eventually move on to a designated portion of the land, which will be developed into a residential area.<sup>11</sup> Restitution discretionary grants and the settlement planning grants, amounting to R15 000 and R7 200 respectively, will be used by the beneficiaries at their own discretion in accordance with their priorities.<sup>12</sup>

One of the first of these Tenbosch farms to be sold to claimants was a mango and cane farm, Outeniqua. It took 15 months for the sale to be approved and the tenants to finally take over. In that time the farm deteriorated in a number of ways. The leader of the Tenbosch community claimed the main reason for the problem was incompetent local officials. Even with the required business plan, drawn up with a neighbouring farmer, the claimants were unable to get grants from the provincial Department of Agriculture and Land Administration.<sup>13</sup>

Sustainability is not just a concern of the farmers. A community claimant leader who believed the benefits of the overall project outweighed the risks, nevertheless cautioned that 'people want jobs and houses, not the land itself.'<sup>14</sup>

culture and Land Affairs. One said: 'I agree that the staffing of the Department of Land Affairs and the land claims commissioners' offices leaves a lot to be desired. I've experienced this at first hand, where you have these new officials dealing with the agricultural industry who have never risked a cent in planting a crop; who have no real understanding of the business aspects, commercial issues, and risks involved in farming; and who are making decisions that spell disaster for this whole process. They also often lack the authority to make the decisions that would speed up the process. Those are the things that have to be put right. Until they are, we're just going to limp along.'

Another participant added: 'There's a huge skills shortage in government in respect of implementing

Black farmers had received thousands of hectares, only to find afterwards that most of the land was under claim

productive land reform. Government officials are very strong on social issues, but very weak on business issues. When you're not getting any response from government, this is often due to the fact that they don't know what to respond to. They don't know what they don't know, and I think this is one of the biggest problems in dealing with government at the moment.'

### Emerging black farmers under land claims

One participant spoke of his experiences as one of the recipients of a land redistribution project. Black farmers had received thousands of hectares, only to find afterwards that most of the land was under claim. When they raised the issue with the Land Claims Commission, they were told that land restitution was different from land redistribution, and did not take colour into account.

Another participant, a successful emerging black farmer, confirmed that many emerging farmers who had obtained their land via redistribution or on the

open market were now finding themselves subject to land claims by communities.

'I acquired a small piece of land, 10,7 hectares, in a commercial transaction. It was just open land with no infrastructure, water or electricity. I've developed it from nothing over a period of three years, and I'm now farming with various commodities. In August 2006 I benefited from the CASP programme, and the government is still assisting me today. My wish is to become a commercial farmer. However, I am now faced with some major challenges.

'The most important of these is that my land - and not only my land but all the farms in the area - are under claim. Since this has happened, I have tried to find an alternative farm which I could lease in case I lose my land and cannot return. I really have a passion for farming. But it has taken me almost 18 months, and I don't know whether I'm coming or going. Accessing land has once again become very difficult.

'The land that I had identified, it has been bought by government two years ago and there are about 80 beneficiaries that have been promised access to the land but it looks like there are some conflicting messages within government. As a result it's just setting people against each other. When the beneficiaries see me, or I try to talk to them, it's as if I'm coming to take something from them - perhaps understandably so, because they want to work, and earn a living.

'I want to bring in government programmes like the Women in Agriculture and Rural Development (WARD) Association. Having started with nothing, three years on I have something that I can say I'm earning a living out of. Other women are looking up to me and saying, we also want to come into agriculture. But having land under claim and being unable to find alternative land means that I might be out of farming in two years' time. This would send a message to other members of WARD who might want to commercialise, that this is not possible.

'So I wish there could be a way to assist emerging farmers not to just emerge and then collapse, but to emerge and grow to become commercial farmers, and contribute to the economy of the country. The policy is good and the programmes are very good, but when it comes to implementation, it seems as if we don't have a plan for land acquisition, then phasing over into implementation and ensuring sustainability, even for those who are already farming.

‘I have already participated. I bought my land with my own funds, but I have received government support via CASP. So the government has already invested in my small piece of land. But if I were to lose it, it would be as if I did not benefit, and did not achieve what I wanted to in agriculture.’

### Uncertainty discourages investment

One participant noted that five per cent of farm land changed hands each year on the open market. In some areas, including Mpumalanga, Limpopo and the North West, even more land was on the market because of economic realities and an older generation that would rather opt out of farming. By just exploiting the land available on the open market, the government could already have reached its 30 per cent redistribution target.

Yet conferences were being held on the issue of foreign land ownership, which accounted for half a percent of agricultural land in South Africa. ‘We need 60 times that to get to our goals, and with all the land available on the open market, why bother with foreigners, especially as we need this kind of investment now? Commodity prices are high. It’s been decades since we last had such good prices, but we did not see the concurrent hike in investment in agriculture. Actually, for the past three years we’ve had a net outflow of investment in agriculture, which is cause for real concern. This does not have a colour or a political dimension to it. It must be because the land issue is so important, and uncertainty, especially among investors, is driving them out.’

Even in northern KwaZulu-Natal, where the best land reform success stories were occurring, large numbers of farmers were extending their operations into Mozambique, Malawi and Botswana. ‘It’s relatively easy these days to establish yourself there, it’s very profitable, and the input costs are much lower. I fear a day when we might become a net importer of our own products from our own farmers working in neighbouring countries, simply because the lines of communication are not open.’

Another participant said organised agriculture was ‘extremely frustrated’ about the lack of communi-

cation with the authorities. ‘Whenever we speak to the minister or deputy minister it is conflict in first gear, and it’s always about socio-economic issues, never about agricultural issues; never about competitiveness, the globalisation of markets, and new technology. We feel we are gradually losing our competitive edge, mostly because of this communication vacuum.’

A number of participants spoke of the difficulties of communicating with national or regional and claims officials, and a lack of trust that has hampered progress with the restitution process. According to one participant, the department was simply ignoring comprehensive plans drawn up by various agricultural industries, especially long-term industries such as timber. The consequences would make themselves felt in the long run. ‘At the moment we have a flood of

Several participants noted that more and more timber and sugar were being grown by South Africans outside South Africa

younger timber, but eight or ten years down the line we will have mills without any input. Some of them will have to close down, perhaps for a few months every year. Can you imagine what this will do to prices in the building and other industries?’

Several participants noted that more and more timber and sugar were being grown by South Africans outside South Africa, and saw this as an illustration of a long-term agribusiness downturn in South Africa due to policy uncertainties.

### Skills mismatch among emerging farmers

Another major theme was that of skills. On the one hand, participants said, there were newly trained people who wanted to farm but could not obtain land. On the other, there were redistribution and restitution processes that would require thousands of skilled farmers who could not be found.

One participant from an agricultural training institution said many of its graduates were unable to

get land. Staff had tried to help them access land from municipal schemes and various provincial departments of agriculture, but to no avail. There was a huge blockage somewhere in the process.

The government's 30 per cent target was meant to be achieved within another six years. Given productive land of 20 million hectares, and an average farm size of 200 hectares, this amounted to 100 000 new farmers. 'The big question for me that nobody has been able to answer is, where are their skills going to come from? The government is taking the land issue so seriously that it has created an entire department to deal with the land issue, quite rightly so. It takes production credit so seriously that we have a Land and Agricultural Development Bank primarily geared to providing credit to new farmers.

Given the poor communication among different stakeholders, the land reform debate is often polarised, and some extreme positions are emerging in various forums

'However, there is no corresponding investment in human capital. This really is not rocket science. If you have a large bulldozer that can quickly move tons of soil, it can only do so if it has a skilled operator. The key factor is not the capacity of the machine, but the skill of the operator. If you give a really good operator a poorer or smaller machine, he could probably do as good a job. This issue is often missed, but really needs to be addressed.'

### **Subsistence farming versus sustainable agriculture**

Given the poor communication among different stakeholders, the land reform debate is often polarised, and some extreme positions are emerging in various forums. One of the issues that has become highly polarised is that of subsistence farming versus sustainable agriculture.

According to one participant, a recent confer-

ence was told the time had come to interrogate the property clause in the South African constitution. The conference was told: 'We should seriously ask each other whether we still need to protect property rights, or whether we should just go for nationalisation and leasehold. The government is seriously looking into things like land ceilings, price ceilings, the right of first refusal for government, and land tax, all of which will be very serious interventions, and will have even greater unintended consequences than what we currently have.'

Another participant said the fact that stakeholders were talking past each other was creating confusion about ultimate objectives. Farmers and the business community were emphasising factors such as economic viability, sustainability, and so on. However, there was very little understanding and very little sympathy for those factors among poor communities and the NGOs claiming to talk on their behalf; rather, the key issue for these people, and the minister of agriculture, was social upliftment. A balance had to be found between those two viewpoints, and an understanding reached about how they interacted. However, this seemed to be very difficult, because the issue of household food security versus national food security was also involved.

'Many of those landless communities and NGOs are saying, as long as we can provide people who currently have nothing with a little parcel of land where they can grow something for their own household consumption, they will be happy, and we will have stability in the rural areas. And if that needs to happen at the cost of agricultural production, and the economy as a whole, then so be it – at least we'll keep those people happy, and we'll have sustainability. The agricultural sector is saying, we need to keep production going, we need to be able to feed ourselves and continue to export, and so on. We haven't struck any balance in this debate, or found a real way forward.'

### **Unintended consequences**

Participants pointed to a curious trend in areas where substantial tracts of land have been bought by the Department of Land Affairs: there was often no one to give the land to. Land had been bought at such a



pace that commissioners were running out of claimants: they did not have enough names to put on the lists to claim the land.

One participant said there were 6 000 claimants in an area with which he was familiar. Thus far, R1,8 billion had been spent on land in the area, amounting to R300 000 per claimant. I wonder what would happen elsewhere in the country when news gets around that all claimants can come and stand in the queue for R300 000. Trevor Manuel might get a heart attack.'

Another major unintended consequence of the present process was the lack of working capital. 'New farmers now sit with the land without working capital, and must therefore find partners to manage their land. The first thing they expect of whoever comes to manage is to put up the working capital and provide the tractors, implements, pack houses and other resources needed to farm their land. But they try to limit those management contracts to five years. Who in his right mind would provide working capital on an investment where your return on capital is probably three per cent, and you've got a tenure period of five years? A citrus tree only starts to produce in year six, and only produces a positive cash flow by year nine.

'So if you enter into this kind of management agreement, you will not replace one tree on that farm to make it sustainable in the long run. You will not apply corrective action in terms of the sustainability of the land. You will rape the land to take off what you can in those five years, and then leave the land claimants with a piece of land that is almost unusable.

'As a result, claimants are moving towards entering into agreements with management companies, and therefore from being productive farmers to being passive income earners.'

A participant made the point that, in order to simplify management, claimants and/or their agents tended to revert to monoculture, but this often deviated from the best possible land use from a public interest perspective.

'The other unintended consequence is that you attract all sorts of management companies, from carnivores to scavengers. They offer the land claimants all sorts of deals, saying, I'll manage your farm and I'll pay you this and I'll pay you that, and the end result of this is that the land claimants say, who is the highest bidder? Who will pay me the most cash? That cash goes into the trust and then the next unintended

consequence emerges, which is that the trustees are held accountable for those monies. Given up to 3 000 claimants, this can be a life-threatening experience.

'There is a court case at the moment in one of the trusts because the management company bought each of the trustees an Indian-manufactured LDV. The claimants are now demanding part ownership of those vehicles, and want to use them over weekends.

'Up to 2006 there were probably 200 commercial

'Not one of these consequences is deliberate; what is taking place is a tragedy of unintended consequences'

farmers in that area. There might be 20 left after the next three to four years. Replacing those farmers with five management companies represents a massive loss of expertise. Most of those farmers who want to continue farming are moving to Mozambique, so in five years' time you will all be eating Mozambican bananas, not South African bananas, because transport costs are not that high.

'Not one of these consequences is deliberate; what is taking place is a tragedy of unintended consequences. I believe you will not recognise that area in five years' time - it's actually very sad.'

### Relationships in farming communities

Social relationships in farming areas decline when the state does not provide a steady policy backed up by realistic implementation. One participant, a farmer, said he believed farms and farming communities were kept together by relationships. 'There are about 130 white land owners in our area, and a black farm workers' community of about 2 500. We started a process of relationship-building within the community in about 2002. This has gone quite well. We'd built up a network of relationships via the police forums and a community forum, and this has stood us in excellent stead, especially when in 2004 a land

claim was gazetted for our area by an outside group which we later ascertained had ancestral links with the land going back about 130 to 140 years but who hadn't lived in the area in the past century. They were unknown to even the oldest inhabitants.

'This was a huge surprise. It had a galvanising effect, though, in the sense that land owners suddenly stood together. But the local farm working community also helped us to refute these claims, and the relationships we had built up played a major role

Another option was to 'privatise' the problem areas through local land reform forums, effectively taking the responsibility out of those officials' hands

in this. Two years later, we are making use of the relationships we have built to address all sorts of other issues. We look after our Eskom power, we look after our roads, we look after our telecoms, we look after the security situation, and when I say we, I mean the whole community.

'So that's our business these days as a farming community: to build relationships in all directions, and I want to plead for that. You can have the best laid plans and the best thought out policy, but you must have a web of relationships to be able to bypass blockages.'

### Some practical ideas

*The discussion moved on to possible solutions to the problems raised during the discussion.*

One participant said if one wanted to make a system work, the various role players had to trust each other. This required good leadership, from the presidential to the local level. There had to be a sense of joint commitment to a common destiny. People had to create a sense of impetus, cohesion and commitment to achieving the end result, and that meant that they had to work with each other, perhaps through organisations such as the Land Reform Forum in

KwaZulu-Natal. This kind of forum was needed in all regions and at all levels.

The lack of state capacity for implementation and follow-up was a major problem. This issue was time-sensitive, but there was little likelihood of building up capacity among officials enabling them to start delivering what they had failed to deliver for ten years. Therefore, another option was to 'privatise' the problem areas through local land reform forums, effectively taking the responsibility out of those officials' hands.

One participant stated: 'Our idea is to launch inclusive forums where we involve the beneficiaries of land reform, commercial farmers, banks, academics, agribusinesses, and all other stakeholders, to not only identify opportunities for land reform but also to take responsibility for maintaining those projects afterwards. It is actually civil society who should start these things, create the momentum, and then draw in various government layers and institutions.'

This would also draw in the banks, which felt they were outsiders in a process they did not trust. 'Transfers of land have been far from seamless. The farming operations tend to come to a complete standstill, and it often takes two to three years to start them up again. In the case of some farms in Limpopo, it will cost more to start those operations again than what it cost government to buy them in the first place. The reason for this is that everybody is waiting for the government to come forward and take the next step. If the banks are involved in these forums, they can also act as a kind of a referee, a third party, which can mediate the conflicts which arise between previous and new land owners.'

Another speaker agreed with the notion of 'outsourcing' land reform, in the form of establishing agency agreements with the Department of Land Affairs that would handle the process 'from A to Z'. Subject to compliance with all the legal requirements, provincial directors would merely have to sign off on the deals put together by such forums, which would significantly speed up land reform.

One (non-farmer) participant noted that 'farmers don't speak up enough'. If one wanted to be heard, one needed to speak up loudly. Perhaps a national lobby organisation which addressed these issues was needed.

Another said: 'A lesson from the day's proceedings is that organised agriculture, representing both

large and small farmers, have been far too timid in speaking out about the realities they face. They have not put enough facts on the table, and have not influenced other sectors of business, let alone people in government. They have failed to make non-agri-

cultural business understand the realities they are facing, the problems they are experiencing, and the implications for the whole country if things go wrong. This must change.'

## Closing comments

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*CDE's executive director, Ann Bernstein, and the facilitator, Jeff McCarthy, reflect on the discussion.*

CDE has done considerable work on land reform issues over the past six years. Nevertheless, listening to the experience of farmers has been extremely useful. Important insights have emerged that are not being sufficiently emphasised in the ongoing public discussion on land reform in the country.

These include:

- the extent of land under claim in commercial agricultural sectors – at least 50 per cent in the sugar industry, and at least 30-40 per cent in timber;
- the serious negative consequences of having such large tracts of land under claim for extended periods of time;
- the great likelihood that the restitution process will not be completed in 2008;
- the tremendous weakness of current state capacity, which is complicating the land restitution and redistribution process, and in many cases preventing the positive outcomes which the country needs;
- the disjuncture between current approaches to restitution and redistribution and the realities of commercial agriculture; and
- the serious accumulation of negatives in the agricultural sector, leading to declining investment in the domestic sector and the diversification of South African agriculture to other countries.

Successful land reform in any country is difficult. It is clear that everyone has underestimated the complexity of getting this right in South Africa. Farmers and other stakeholders from all backgrounds are describing land reform as an area that is now 'thick' with problems. A government-led environment must be urgently created in which frank discussion of the issues involved is encouraged, and practical solutions found. The challenge is not the lack of goodwill, or farmers who are unwilling to participate posi-

A government-led environment must be urgently created in which frank discussion of the issues involved is encouraged, and practical solutions found

tively in the process; a mix of dynamics – including the complexity of what is being attempted – are now producing a situation with unintended and serious negative consequences.

The workshop has considerably enriched ongoing CDE research. CDE will soon publish its second major research report on land reform in South Africa, containing its findings on developments over the past three years, as well as recommendations for action.

## Endnotes

- 1 LRAD is the Land Redistribution and Agricultural Development Programme, an incentive scheme by the departments of Agriculture and Land Affairs that entitles beneficiaries to grant funding to support the acquisition of agricultural land.
- 2 CASP is the Comprehensive Agricultural Support Programme of the Department of Agriculture and Land Affairs, which provides funding to farmers and households in the agricultural sector in an attempt to put emerging farming businesses on a commercial footing.
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