



CENTRE FOR DEVELOPMENT AND ENTERPRISE  
Informing South African Policy

# LAND REFORM IN SOUTH AFRICA



## Getting back on track

**ABRIDGED**

CDE Research No 16

Cover: Brian Phokane, general manager of Coromandel, a 5 800 hectare worker-owned estate in Mpumalanga, surveys land under tillage. Photograph: Stephan Hofstätter



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May 2008

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CDE Research provides South African decision-makers with detailed analyses, based on original research, of key national policy issues.

Series editor: Ann Bernstein

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## Acronyms and abbreviations

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AgriSA	Agriculture South Africa
BEE	Black economic empowerment
CLARA	Communal Land Rights Act
DLA	Department of Land Affairs
DoA	Department of Agriculture
ESTA	Extension of Security of Tenure Act
GDP	Gross domestic product
LCC	Land Claims Commission
LRAD	Land Reform for Agricultural Development
LPC	Lereko Property Consortium
LTA	Labour Tenants Act
RLCC	Regional Land Claims Commission

## ‘South Africa belongs to all who live in it’

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For most South Africans, the history of land in the 20th century is a history of pain and injustice. Any meaningful discussion of land reform has to start by acknowledging this pain, and by recognising that those who were dispossessed under apartheid have a right to justice. People must be fully compensated for dispossessed land and other assets, either under apartheid or previously. Equally important, any serious discussion of these issues has to begin by recognising that the democratic government has already done a great deal through its land reform programme to rectify the injustices of the past. Government will always be central to land reform. Much of this report is about what markets and the private sector contribute to land reform, but all of this takes place in the context of the current government’s policy framework and programmes.

All South Africans would agree that land reform needs to make its beneficiaries and the country better off. Little is gained in the long run if justice turns out to be purely symbolic, leaves people poorer, or even aggravates grievances. It is therefore of considerable concern that, as the director-general of the Department of Land Affairs (DLA) recently stated, at least 50 per cent of government land reform projects have failed to make their beneficiaries permanently better off.<sup>1</sup>

CDE has researched and written this report as a contribution towards achieving the country’s constitutional commitments on land issues; ensuring that land reform improves the lives of its beneficiaries; and ensuring that the national effort on land reform helps to establish a sounder foundation for rural and national development. We have kept these goals in mind throughout our research and analysis. But, as public policy analysts, we cannot be satisfied with just stating our goals. In order to move from goals to realistic policy proposals, we have to look carefully and objectively at the evidence about what is really happening in the policy arena and in the countryside.

South Africa’s approach to land issues now appears to have reached a crossroads. The pace of land redistribution is far too slow to meet the expectations raised by the government’s target that blacks should own 30 per cent of commercial agricultural land by 2014. The restitution process has successfully settled almost all urban claims, but is now deeply bogged down. The last phase of restitution – dealing with the biggest and most difficult rural claims – has resulted in large swathes of productive commercial land being placed under claim and therefore being effectively frozen for years. There is no prospect of meeting the 2008 deadline set by the president for completion of the restitution programme, and thus significant parts of the rural economy are set to decline.

Many land reform projects involving large numbers of people have failed. Attempts to improve tenure for black people in rural areas have made little if any progress. Promising land initiatives in the private sector have been aborted or put on hold because of the scale of claims on private land and delays in resolving them; and also because of a lack of capacity within provincial and national state structures to engage constructively with private interests. Some new black farmers who had benefited from redistribution are now finding their new property under claim as the restitution process proceeds in isolation from other policies. The amount of money required to deal with land issues is far larger than originally assumed. And dealing with all these issues is far more complex than anticipated.

South Africa’s approach to land issues now appears to have reached a crossroads

In this context, dissatisfaction is growing on all sides. Since our first report on land reform, published in 2005, a number of influential people in politics and the civil service have begun to adopt more populist and anti-market positions. This line of thinking is expressed in several – though far from all – of the resolutions adopted at the ANC national conference held in Polokwane in December 2007 (see box: **ANC resolutions on land reform**, facing page).

The present trend in official and ANC thinking can only have negative consequences. Prominent examples of this include the recent suggestion by the DLA that the government should have the right of first refusal over all land outside of developed urban areas, and that without a government certificate indicating its lack of interest the land cannot be sold; and the current expropriation bill, that seeks to expand state powers in this area and simultaneously to undermine land owners' access to judicial review of administrative decisions.

No one should underestimate the importance of the rising accumulation of difficulties with respect to land issues, and the dangers of current trends in the policy conversation. However tempting it is for other ministers of state or urban business leaders to ignore what is happening, this would be a grave mistake. If things go wrong with respect to South African land issues, we are looking at current proposals or plans that could:

- dramatically hasten the current decline in the scale, competitiveness, and job creation potential of the commercial farming and agri-processing sectors (precisely the opposite of the government's intention under the AsgiSA strategy<sup>2</sup>). An unintended consequence of land reform as currently implemented is that South Africa could begin to move from a food exporting nation to one dependent on food imports;
- have important negative spillovers into the broader economy, both directly, through its linkages with agri-processing, and indirectly, by reducing consumer and investor confidence;
- significantly undermine rural property rights, with all the negative consequences that will flow from that;
- start to spread racial tension, weaken the social fabric generally, and create fertile ground for unscrupulous politicians.

South Africa cannot risk these outcomes. There is another way to proceed.

This report offers practical recommendations about how to get land reform back on track. These recommendations are calls for action that are realistic and practical; that would build on what has been achieved, and on the private sector's capacity to contribute to national goals; and that would be supported by the vast majority of South Africans, because they would lay the foundations for real and lasting transformation in the countryside.

Our recommendations are designed to ensure that justice is done; land reform beneficiaries are made permanently better off; and South African agriculture both transforms and continues to attract investment, generate export earnings, and provide a growing number of good jobs.

This report  
offers practical  
recommendations  
about how to get land  
reform back on track

## ANC RESOLUTIONS ON LAND REFORM

Most of the resolutions on land issues adopted at the ANC's national conference in Polokwane in December 2007 were moderate, technically oriented recommendations for improvements to current government policy.<sup>3</sup> However, several other policy resolutions and recommendations displayed a trend towards a more radical approach. In the words of these resolutions:

'We should discard market-driven land reform and immediately review the principle of willing seller, willing buyer so as to accelerate equitable distribution of land.'

'Ensure that the state regulates the land market effectively with a view to promoting the goals of rural development and agrarian change, limiting the unsustainable use of land for elite purposes (such as the conversion of prime agricultural land to golf estates) and ensuring that land remains predominantly in the hands of South African residents. To this end the management and control of state land must be consolidated under one roof.'

'Introduce a special land tax and other progressive tax measures with the aim of creating incentives for the disposal of under-utilised land and the deconcentration of land ownership, and act urgently to remove biases that currently exist in the tax system that provide incentives for the ownership of large tracts of land, capital intensity and the underutilisation of agricultural land.'

'The state must, with immediate effect, regulate but not prohibit ownership of land by non-South Africans. This regulation should take into account the country's commitment to land reform, restitution, redistribution and access to land.'

'The state and mandated entities must exercise their legal right to expropriate property in the public interest for public purpose. Compensation shall be awarded in accordance with the constitution with special emphasis on equity, redress and social justice. All legislation pertaining to expropriation must be aligned with the constitution.'

CDE 2008

To claim that 'the market' or 'white farmers' have been manipulating prices upwards across the country is inaccurate

## The land market and land reform

CDE conducted an extensive overview of research on the functioning of the land market throughout the country. Our main results are:

- Millions of hectares of land are transacted on the open market each year, and an increasing proportion of buyers are black.<sup>4</sup> CDE estimates that the true extent of land transferred from white to black ownership is now close to 6,8 per cent of commercial agricultural land. Some 4,7 per cent of agricultural land has been transferred through state programmes. This means that market transactions have already transferred a quantity of land equivalent to 40 per cent of land transferred via the government's land reform programmes.<sup>5</sup> And this is probably an underestimate. The quality of land transferred through private market processes is also higher than the average for all land transferred.<sup>6</sup>
- In some areas, blacks now own far more than 7 per cent of commercial agricultural land. For instance, CDE's own research shows that black farmers now own 32 per cent of land in the KwaDukuza district in KwaZulu-Natal; close to 30 per cent of land in the Eastern Cape regions of Elliot and Ugie; and, reportedly, between 12 and 20 per cent of commercial agricultural land in some districts in the Free State.

- The average price of average quality South African farmland increased at much the same rate as the consumer price index (CPI) over the period 1994-2003.<sup>7</sup> In other words, farmland was no more expensive in real terms in 2003 than it had been before land reform started in 1994.
- There is no evidence that prices are generally rising faster than average in areas where a great deal of land reform is taking place. CDE analysed Deeds Office records for two areas in Mpumalanga and two in Limpopo where a lot of land is under claim. Up to 2006 land prices were not rising faster in these four places than in the country as a whole.<sup>8</sup>
- There is no consistent upward movement in the prices the government has been paying to settle restitution claims. Instead, prices fluctuate depending on the type of property being bought. Some recent claims of large and valuable sugar and fruit farms have been expensive to settle, but overall restitution transaction prices only increased by 1,1 per cent a year during the period we examined. The evidence simply does not support the notion that restitution prices have been unreasonable.
- It is highly unlikely that white farmers with land under claim are systematically taking unfair advantage of land reform to achieve unreasonably high prices for their land. To claim that 'the market' or 'white farmers' have been manipulating prices upwards across the country is inaccurate, and could well lead to poor policy choices with extremely negative consequences.

There is no evidence that prices are generally rising faster than average in areas where a great deal of land reform is taking place

## Area studies

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A closer look at the relationships between the land market and land reform in four localities confirms these national findings, and adds some important further insights, particularly about the unintended but serious consequences of the restitution process.

### Stellenbosch, Western Cape

Farm prices in this subregion rose strongly over the three years studied (which corresponded to the peak national property boom years.) However, this price escalation had little or nothing to do with farming or land reform. Instead, it related mostly to the non-farm component of farm values (houses on the farms, etc), the attractions of the area as a retirement and tourism destination, and relatively low interest rates.

In this district, land reform has been achieved through equity schemes for farm workers. Government land reform funds are mainly used to buy shares (equity) for workers in new private companies which, in turn, own the farm and the operations that take place on it. The former sole owner often retains a majority share ownership. As part-owners of the farms on which they work, workers receive additional income from farm profits. Their housing has also often been improved. These programmes have generally been successful. The land reform process in Stellenbosch is positively perceived both by local people and more widely.

## Elliot and Ugie, Eastern Cape

Here, land ownership by black South Africans has radically improved, and the district's commercial agricultural land is almost 30 per cent black-owned. Many white farmers sold willingly, often with sales assisted by LRAD grants. Many white farmers still on the land are mentoring new black farmers. Volumes of sales and land prices here have fluctuated over time, but on average land prices rose in line with inflation between 1999 and 2006.

The situation among new black farmers is less positive than among white 'willing sellers'. Black farmers who acquired leasehold over state land since 1994 have since tried unsuccessfully to convert their leases on state land into ownership. Because they cannot convert their leasehold to freehold, they have been unable to use their land as security for loans needed for further agricultural development. Many of those who have gained ownership of 'white' land also feel that the government has lost interest in them. It appears that no LRAD beneficiaries in the Eastern Cape have received post-settlement farming training by government.<sup>9</sup>

## KwaDukuza, KwaZulu-Natal

This district has a long and close association with the sugar industry. Of 93 019 hectares under sugar cultivation in 2005, 68 per cent was white-owned, and 32 per cent (29 766 hectares) black-owned. Of the latter amount, about one third had already been sold to black people before 1994. The largest black-white transfers have occurred when sugar milling companies have sold large blocks of land as part of their BEE undertakings.

Only two land restitution claims had been settled by mid-2006. These had transferred 1 000 hectares, equivalent to 3,3 per cent of the hectares transferred through the market. By the end of 2007 many new claims had been gazetted. It is probable that two thirds of the total commercial farming area is now under claim.

Some claims include land with significant urban development potential on the coast, which is often valued at about a million rands a hectare. Thus, just two or three potentially pending claims on high value farms in this area could require – at market values – more than R1 billion to settle. This sum equals half of South Africa's entire national restitution expenditure for 2006/7.

Concerns about the scale of these claims are beginning to paralyse the land market in the district. Once a restitution claim has been lodged or gazetted, no procedures for sale or transfer can take place – including redistribution to emerging black farmers assisted by government LRAD grants. Several of the farms under claim are already black-owned, with the owners often having been beneficiaries of voluntary redistribution by sugar companies and/or government LRAD grants.

## Badplaas, Mpumalanga

The land restitution process in Badplaas started in 2002 and almost immediately confronted multiple problems, with the result that market transactions are now effectively frozen. By April 2008 most of the farms transferred as part of the restitution process had not been allocated to beneficiaries, and lay unused, with their infrastructure running down.

The land restitution process in Badplaas started in 2002 and almost immediately confronted multiple problems

CDE's research revealed multiple reasons for this stalemate, including inexperienced management of the process by the Land Claims Commission, resistance by some farmers, and problems within the DLA.<sup>10</sup> Short- and long-term damage is being done to the land reform process; only a few farmers had been paid for their farms; and where farms had been transferred the beneficiaries had not received adequate training or any tangible benefit from the transaction.

In summary, CDE's four area studies show that:

- Land markets differ in important ways by area. The balance between supply and demand; the type of farming and other activities possible on the land; the sequencing of government and private land acquisition; and the unintended consequences of state action in particular areas all have highly specific local effects.
- Allegations that white farmers are manipulating the market or that they are generally hostile to land reform do not reflect the general reality. They are likely to be based on narrow samples of unusually problematic cases; on experiences resulting from weak state capacity in relation to land valuation and the management of land transactions; and on ideological preconceptions.
- Restitution claims have frozen the land market in some areas. As a result, the broader process of land redistribution has also been halted.

The banks have developed innovative financial models for helping new black farmers to buy valuable land, and farm it profitably

## The private sector and land reform

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Politicians and officials who suspect that the operations of the market are an obstacle to land reform are often also suspicious of the private sector generally. Like the belief that markets are holding up land reform, this suspicion of the private sector is not supported by the evidence.

In fact, some leading companies pioneered voluntary land reform long before it became official government policy; and today the private sector's role in land issues is bigger than it ever was.

Looking at South Africa as whole, we found:

- Commercial banks are now central to the financing of the land and agricultural sectors, and are a leading source of information and knowledge about farming and agri-processing. In 2004, for example, the private sector funded more than twice as many land transactions as the state. The banks have developed novel financial models for helping new black farmers to buy valuable land, and farm it profitably. Two noteworthy recent examples are innovative commodity financing schemes, and the use of co-funding from international development donor agencies.<sup>11</sup>
- Land-based companies are concluding more and more BEE deals. These have the effect of extending black ownership not only over land but also into more profitable parts of the agri-processing value chain. One example is Sappi's recent BEE deal in terms of which that giant timber company sold a 25 per cent stake in its plantation and land holdings to Lereko Property Consortium (LPC). This deal was worth R224 million.<sup>12</sup>
- About 50 projects in which existing farmers support new black farmers who have benefited from the settlement of land claims, or from land redistribution.<sup>13</sup> The initiatives are launched and sustained through farmers' associations, co-operatives, sector organisations, and agri-business co-operatives. However, there have been growing

numbers of reports of difficulties with mentoring schemes. These are partly a result of impediments sometimes placed in the way of farmers deemed to be engaging in 'paternalistic' joint venturing and mentoring by regional land claims commissioners; and partly because effort is less likely to be expended on post-settlement support when both established and new farmers fear that their land will be subject to a restitution claim.<sup>14</sup>

- No fewer than 15 major corporate investment initiatives in the fields of land reform and BEE are taking place in land and agriculture. These include the New Farmers Initiative; Bokosini Farms; small agribusinesses established through Absa's Black Business Incubator Fund; and grants for agricultural education.<sup>15</sup> There are hundreds more smaller initiatives undertaken by small groups and individual farmers.

Just as each geographic region has unique characteristics, so has each agri-business sector. CDE's in-depth research on three sectors – fruit, timber, and sugar – illustrates the importance of accurate information about each sector. Successful land reform in areas dominated by particular agri-business sectors has to be based on a detailed knowledge of what that sector does. As we emphasised when discussing regions, there is no single, 'one-size-fits-all' solution that applies to all sectors.

## Fruit

In the season ending in 2005, South Africa produced 5,5 million tonnes of fruit, valued at R12,2 billion.<sup>16</sup> Fruit is an increasingly important export. Of the total 2005 production, 1,8 million tonnes was exported, an increase of more than 80 per cent over 11 years. The most important facts about the fruit sector are that:

- it is still characterised by large, white-owned operations and small black-owned operations, but BEE deals are beginning to modify this pattern;
- the efficiency of the production chain could be significantly improved, possibly creating BEE opportunities outside farming itself; and
- the simple transfer of small portions of land to black farmers will be ineffective, as economies of scale are vital to profitability.

Given these realities, industry participants argue that equity schemes are a much better form of land reform than simple land transfers. Equity deals recognise that land ownership *per se* is often the least attractive aspect of the fruit value chain from the point of view of returns on investment. Being higher up that chain, for example in processing or in distribution (especially for export), is usually much more financially rewarding. Under equity schemes, new entrants gain access to the entire value chain.

Maintaining the South African fruit industry's export competitiveness will require careful attention to price, quality, and consistency of output. Where insufficient post-settlement support is provided to land restitution beneficiaries (as is now happening in several cases in Mpumalanga and Limpopo), all three are at risk. Indeed, many industry participants are arguing that the very existence of the fruit industry is now threatened in those provinces.

## Timber

Timber is grown on 1,37 million hectares of commercial forest plantations, and the sector contributes R12.3 billion to GDP (2003–4). Ownership of the land is divided between

There is no single, 'one-size-fits-all' solution that applies to all sectors

corporate growers (59 per cent); individual farmers (22 per cent); state land (16 per cent); and emerging growers (2 per cent).<sup>17</sup>

The timber and paper mills owned by the larger companies will often be more valuable than all the land and trees that serve them. Yet mills become financially non-viable below a certain minimum threshold of timber supply. Ensuring continuity of supply is therefore vital to the financial viability of the whole timber company.

Industry experts point out that, in order to maximise economic benefit to new black owners, and ensure the viability of the industry, BEE should be applied at various points in the supply chain, and should not be confined to the ownership of land or the production of trees. The industry is already doing this. The two largest forestry and pulp companies completed major BEE equity deals in 2005–6. The industry has also created an Emerging Farmers Programme under which black farmers have been allocated land previously owned by companies or white farmers, and are contracted to supply wood to company-owned mills.<sup>18</sup>

Restitution claims have now reached a scale that is threatening confidence in the long-term viability of timber production in South Africa. Some 48 per cent of Mondi's land and at least 17,5 percent of Sappi's land is under claim.<sup>19</sup> In July 2007 an industry leader reportedly stated that the most serious challenge now facing the timber industry was the 'uncertainty created by the land restitution process and other political developments.'<sup>20</sup> New timber plantings in the country have declined steadily since the early 1990s.

Restitution claims have now reached a scale that is threatening confidence in the long-term viability of timber production in South Africa

## Sugar

The sugar sector employs more than 100 000 people. Some 47 000 of these are sugar cane growers, mainly black small farmers based on communally owned land. (The number of small growers peaked in 1996 at more than 56 000.)<sup>21</sup> In total, sugar supports around a million people, taking into account the families of the people who work in the industry. The sector earned about R6 billion in 2005, R2 billion from exports.

The sugar industry voluntarily launched BEE-type programmes as early as the 1970s. More recently, the SA Sugar Association initiated the Inkezo Land Company, aimed at promoting sustainable land reform in the sugar industry. Inkezo supports small-scale growers (by identifying land to suit individual farmers, accessing finance, and providing post settlement support) and has been praised by government as an example to other agricultural sectors.

The sugar sector has considerable economic importance and potential. It also has a track record of successful land reform. This positive momentum is now being significantly slowed, if not halted. As with fruit and timber, confidence and investment in the sector are being seriously damaged by the slow pace at which restitution claims are being resolved. As the SA Cane Growers' Association pointed out in October 2007, '50 per cent of the [cane land] is under claim, with only 4 per cent settled.'<sup>22</sup> The slow pace of claim settlement (with claims often taking several years) has stalled market-based redistribution initiatives. The commercial banks are unable to grant loans to farmers (whether black or white) if there is a restitution claim on that land.

There is an additional challenge in managing restitution specific to the sugar industry. If too many restitution beneficiaries are unable or unwilling to continue growing sugar cane

on their land, the entire industry could collapse. This is because sugar mills become non-viable if total sugar cane output falls below a certain level.

These difficulties could accelerate the movement of ever more of the operations of the larger sugar companies out of South Africa to countries to the north – such as Malawi and Zambia – where growing conditions are better, where there is less uncertainty about land ownership, and where labour and other costs are lower.

CDE's three case studies of agri-business sectors reach the following conclusions:

- In all three sectors, the private sector has been actively engaged in promoting and supporting land reform for at least a decade.
- The outcomes of private sector-led land reform compare very favourably with the results of pure state programmes. This is because of the private sector's emphasis on effective BEE rather than just on hectares transferred; its greater focus on productivity; and its greater ability to allocate appropriate land to specific claimants, and provide technical support to new farmers.
- There is a clash between the dynamics of globally competitive agriculture and the outcomes of government's land reform policies. Government land reform tends to result in a lot of people living or working on small pieces of land. To be competitive, agri-businesses usually need to operate on a much larger scale.
- Whether in timber, sugar or fruit, being a small farmer means being at the least profitable end of the value chain. Moving into the more profitable middle section requires agricultural and business skill, training, and sustained institutional support.
- Debate on land reform in South Africa needs to become a lot more specific about each agri-business sector, and how best to open up opportunities at profitable points in the value chain for black South Africans. Successful land reform will require familiarity with quite different details in each case.
- By late 2007 the slow pace and unpredictability of the restitution process was severely disrupting both redistribution and productivity, and disinvestment was starting to occur.
- This disruption and disinvestment is largely a result of the serious problems now being encountered in the restitution process: restitution is going far more slowly than hoped; many large new claims have unexpectedly emerged long after the statutory cut-off date; and post-settlement outcomes have often been very poor.
- South African agri-businesses are shifting an increasing proportion of their assets and energy to neighbouring and other countries.
- Because of increased global competition, international interest in many of our agri-business products is already not as strong as it was. Additional pressure on these sectors as a result of poorly implemented land reform could result in a dramatic decline in exports, and a withdrawal of international investment in these sectors. This would have knock-on effects across the South African economy.
- South Africa could begin to move from being a food exporting nation to one that depends on importing food.

The outcomes of private sector-led land reform compare very favourably with the results of pure state programmes

## Performance of state programmes

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The government has pursued land reform through four processes. These are restitution (returning land or providing a cash equivalent) to people dispossessed by apartheid; redistribution (transferring more land to black owners); tenure reform (modernising land

tenure rules and access to land ownership); and providing funding and other resources to support emerging black farmers. A broad range of politicians, business people, farmers and communities agree that land reform is progressing too slowly. CDE's research strongly supports this opinion.

Our focus in this abridged report is on the role of markets and the private sector in land reform. In this section, therefore, we simply list our main research conclusions on the performance of state programmes. (We discuss the progress and prospects of each government programme in detail in the full-length version of this report; and in our 2005 report entitled *Land Reform in South Africa: a 21<sup>st</sup> Century Perspective*.)

Government is now experiencing serious implementation difficulties in all of its land reform programmes

- In our 2005 report we supported the government's generally sensible and realistic approach to land reform. We pointed out that since 1994 government has pursued land reform in a reasonable, largely market-oriented manner, firmly rooted in the constitution. The government has not received enough credit for this approach, or for its achievements. For example, about 90 per cent of validated land claims (mostly in urban areas) have been settled (mainly with cash), a significant accomplishment in a difficult area.
- Nevertheless, measured against the political importance of land and government's ambitious targets, progress overall has not been adequate.
- Government is now experiencing serious implementation difficulties in all of its land reform programmes.
- Restitution has stalled in many rural areas now that the government has to deal with the most complex and expensive rural claims. As noted earlier, stalled restitution has a freezing effect on land transactions and on further investment in areas under claim.
- Tenure reform also appears to be stalled, and is raising political temperatures in some regions.
- Redistribution remains slow. One of the main reasons for this is that it is held back by unresolved restitution claims; another is the lack of capacity in the DLA and Department of Agriculture (DoA).
- In many cases, productive land has stayed unoccupied for a year or more after DLA acquisition. As a result, formerly high-quality land loses much of its value and productive potential.
- By August 2007 only a third of state land had been audited.<sup>23</sup> Because so little is known about state land, it is very likely that there are significant opportunities for land reform using state land which are being ignored. Anecdotal evidence suggests that there is a considerable quantity of well-located land under the control of national and provincial departments as well as municipalities which is not being efficiently used either for agricultural land reform or for settlement.
- The DLA has recently struggled to spend its budget allocation. for instance, in 2006/7 it spent R3,7 billion, adjusted down from a planned R4,8 billion.<sup>24</sup>
- Even if the DLA is able to spend its whole allocation in coming years, there is a mismatch between the size of its budget and the likely cost of meeting government's land reform goals. The department's total budget for 2008/9 is R 6,66 billion, and for 2009/10 it is projected to be R5,96 billion. In 2008/9, restitution will receive just more than R3 billion, and redistribution some R2,89 billion.<sup>25</sup> To put these numbers in context: a single very large restitution claim on valuable coastal land could cost as much as R1 billion to settle.
- There are no convincing plans to reduce capacity constraints in the DLA and the Land Claims Commission (LCC). In presentations to parliament in November 2007, the act-

ing director-general of Land Affairs stated that the vacancy rate in the DLA was 27 per cent, and that it remained a 'great challenge' to recruit and retain staff.<sup>26</sup>

## Current political and policy developments

It is clear from the November 2007 parliamentary hearings on land reform, the ANC's national conference in December 2007, and the parliamentary media briefings in February 2008 that many people – both inside and outside the ruling party – are increasingly unhappy about the progress of land reform and about the capacity of the DLA to implement it effectively (see box: **ANC resolutions on land reform**, page 7). This justified dissatisfaction is being expressed – unfortunately, in CDE's view – through demands for a much more populist, radical, state-led, and anti-market approach to land reform.

The DLA itself is responding to the mismatch between its goals and its achievements in three ways. First, it is seeking additional funding, while simultaneously trying to depress land prices by threatening expropriation, advocating new taxes on land, and promoting the idea and practice of levying municipal property rates on agricultural land. Second, some DLA officials are themselves promoting more radical solutions, with a move away from applicant-driven reform to direct state action. Draft documents circulating in the DLA in early 2007 stated that 'the design and implementation of a policy and/or legislative measure empowering the Government to have the first option to purchase the land that comes into the open market ... should be actively prioritised in the same manner that the Zimbabwean and Namibian Governments have approached the question of land.'<sup>27</sup>

Other signs of a move towards a significantly more anti-market and populist approach include both the content and tone of the September 2007 report of the Panel of Experts on Ownership of Land by Foreigners in South Africa; and, most recently, calls for a much harder line against white farmers alleged to be illegally evicting farm workers.<sup>28</sup>

A high degree of decentralisation of both policy development and implementation is required for successful land reform

## Research conclusions

1. South Africa, like all developing countries, is urbanising rapidly.<sup>29</sup> Therefore, land reform programmes must include the identification and release of urban and peri-urban land for settlement, housing and job creation, as well as reform of ownership and use of land suitable for farming. In terms of numbers of likely beneficiaries, urban-oriented land reform will be more important than providing rural plots for small farmers; and, because the bulk of jobs are created in cities and large towns, it will offer better access to mixed sources of income for poorer households, to the services and opportunities available in urban areas, and to the fruits of economic growth in general.
2. There is no place in a land reform strategy for a 'one-size-fits-all' approach. There are large regional and sectoral differences among appropriate land uses. Effective land reform thus requires specialisation, experience, and local knowledge. Far more of these strengths can be found in the private sector than in the public sector.
3. A high degree of decentralisation of both policy development and implementation is required for successful land reform. Here again the role of the private sector and their

capacity to implement decentralised programmes are vital. Without enabling state attitudes, structures and incentives, viable and sustainable options will be missed.

4. Just providing land will not allow new farmers to succeed. More attention should be paid to equity-based BEE programmes and to ensuring the participation of black farmers at more profitable points in the value chain than farming itself.
5. New black farmers must succeed. Much greater post-settlement support is needed, as is more complete integration of new farmers into the established farming community. Both will require greater involvement of local private sector players in effective partnerships with state institutions.
6. Land reform policy must be compatible with the economic dynamics of the land and agricultural sectors. In most cases, larger farms are more competitive. Special attention should therefore be given to preserving the scale economies of high-quality large farms. Attempts to settle many new small-scale farmers on small portions of these farms would set up the new farmers to fail.
7. The slow pace of processing and settling the remaining land restitution claims is creating uncertainty, stalling investment, and having negative impacts on agricultural production. These delays appear to be largely attributable to inexperienced and inappropriate staff and/or understaffing in the DLA and Land Claims Commission, both nationally and provincially. Unless these claims are resolved much more quickly, major sectors of agri-business and tens of thousands of jobs could be threatened.
8. Government has had only mixed success in acquiring land at reasonable prices and at an acceptable pace. The government must make more funds available, and they must be spent – in a more market-sensitive way than in the past. Allowing inexperienced officials to venture into the complexity of the land market with billions of rands without support from skilled private sector professionals will result in continued poor value for money.

Land reform policy must be compatible with the economic dynamics of the land and agricultural sectors

## Where are we now, and where are we heading?

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In 2005 CDE reported that a ten-year review of trends in land and agriculture was worrying; by early 2008 we must report that the situation is more worrying still.

- Agriculture has become even more challenging. In 2005 agriculture contributed more than 3 per cent of GDP, and international competition was making farming in South Africa more difficult. Today, agriculture's share of the economy is less than 3 per cent, and farming competitively is even harder than before.
- CDE pointed out in 2005 that the DLA was struggling; that capacity within this department was a serious problem; and that the DLA was beginning to generate radical rhetoric about how to reach arbitrary targets. All of these trends have intensified.
- We argued that it was vital for reform beneficiaries to be better off after the process. Although there is no definitive research, the DLA itself now acknowledges that at least 50 per cent of its land reform projects have failed;<sup>30</sup> some reports put it at much higher than that.
- CDE reported in 2005 that although markets and the private sector were essential both for successful agriculture and land reform, these forces were increasingly under

challenge from some people in government and the ruling alliance. The situation has since worsened, with 'state-led' development and intervention rhetoric now a political commonplace.

- The popular politics of land have clearly become more worrying since 2005. CDE argued then that government, on its own, would not be able to 'hold the line of reason' in the face of continued accusations of failure or inadequate progress, land invasions, cycles of violence and populist pressure for 'quick fixes.' Today, the government's grip on these problems is looking increasingly frail.
- CDE argued in 2005 that strong national leadership was vital to successful outcomes in land and agriculture. This need is even more urgent now – but unfortunately also an increasingly uncertain prospect.

We are now also seeing two new negative trends that had not emerged by 2005. First, competitive agri-business is shrinking in at least three sectors and in several regions of the country. This is taking place at a time when booming commodity and food prices should be stimulating rapid increases in investment. The most important reason for this is stalled restitution, coupled with other risk factors. Second, we are starting to see emerging black farmers being negatively affected by the land restitution process, because the settlement of restitution claims with land is being elevated above the importance of nurturing successful black farmers.<sup>31</sup>

CDE has painted two possible trajectories for South Africa's future with respect to land issues. Neither is an appealing prospect. The first, entitled 'Nobody Wins,' assumes that the situation continues to fester without any decisive intervention – a dangerous approach in a country with a troubled, divisive history about land, and which hopes to use agriculture as a growth sector. Our second, labelled 'Everybody Loses,' is an even more negative possibility which suggests that South Africa will embark on a version of the Zimbabwean 'fast-track' land reform policy. If this happens, land issues will develop such powerful and harmful momentum that they could spin out of everybody's control, with extremely negative consequences.

Neither of these directions is desirable for the majority of South Africans. Yet, without a decisive shift in direction, one or the other seems inevitable.

We need to find our way to a more optimistic future for land and agriculture than those that seem likely at present

## Getting back on track: CDE's recommendations

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There is a clear need for urgent action to get land reform back on track.

We need to find our way to a more optimistic future for land and agriculture than those that seem likely at present. It is clear that this better future will need to be based on a bold plan: leadership, courage, and vision are required to turn around the currently very worrying situation, and to convince the sceptics that land reform is being well-managed and will lead to a better life for all.

The details of such a future will need to be negotiated at the highest levels. CDE suggests that there will be a small number of indispensable starting points for a new and more positive path. These are:

- recognise the need for an honest assessment of past mistakes;
- be open to redefinitions of the roles of the state and the private sector;

- treat metropolitan, urban, peri-urban, and rural land for settlement and housing differently from land on which aspirant black commercial farmers can be settled. These needs are very different, and require equally different policy responses;
- recognise that land in itself cannot solve mass rural poverty, and launch other programmes to address this; and
- set realistic objectives that can be achieved, and regularly report progress towards these.

## CDE has one core recommendation

The country should immediately establish a talented, action-oriented partnership which will report every six months to parliament on progress with respect to land issues. This partnership should consist of senior leaders in government, the ruling party and the private sector, particularly agri-business. Its work would focus on five tasks.

### **Task one:** Completing restitution speedily – ‘ending well’

South Africa needs a dedicated task team and organisation which will resolve the restitution impasse urgently. We have to accept that the 2008 deadline to complete restitution will not be met.

There is great uncertainty and accompanying disinvestment in areas with unresolved claims, and attitudes are hardening on all sides in these areas. This is having a negative effect on South African agriculture, the prospects for successful land redistribution, race relations in the countryside, and confidence in the government and the state.

Resources should be devoted to outsourcing some of the Land Claims Commission’s functions. We should immediately establish a public-private task team to resolve remaining cases of gazetted restitution. This should include buying land efficiently and quickly, and providing a range of other options, including cash settlement, bursaries to agricultural colleges, or other opportunities.

The resolution of the restitution impasse is a first order priority for successful land reform, because it lies at the root of so many other problems in virtually all regions of the country.

**Large agri-companies are offering their assistance.** They have creative plans for how to make speedy progress in generous settlements. These plans would bring together restitution claimants with farm workers and others who would be interested in farming as a means of livelihood to pool skills and ensure that no one loses out unfairly when claims are settled.

### **Task two:** Getting redistribution on the right track, and then going to the scale the country needs

There is significant land asset hunger in South Africa. Land will be needed for black settlement and ownership in rural and urban South Africa. It is essential that redistribution meet these needs effectively and in ways that leave land reform beneficiaries and the country as a whole permanently better off.

South Africa needs a dedicated task team and organisation which will resolve the restitution impasse urgently

There are two preconditions for getting redistribution on the right track before the programme aims to transfer the necessary quantities of land.

- First, we need an accurate understanding of patterns of land demand and land supply. This will require, among other steps, an immediate and authoritative audit of existing state land. As our research has found, the state has only been able to audit some 33 per cent of state land (and it is not clear if this includes municipal land). In parallel with a better understanding of the potential of state-owned land – some of which may be of good quality – we urgently need to develop a much clearer understanding of regional patterns of land demand, and demand for what purpose, in both rural and urban areas.
- The second essential precondition for successful large-scale land redistribution is to ensure that redistributed land does not fall into communal tenure, but remains in private ownership. Communal land is effectively taken out of the land market – it is frozen – and cannot be used as collateral for investment, preventing people on communal land from accessing many of the benefits of ownership and the resources and skills offered by the financial sector. People living on communally owned land are far less likely to be able to prosper and build a better future than redistribution beneficiaries who own and control their land themselves. One worrying aspect of current approaches to land reform has been the introduction of communal ownership into commercial agricultural land.

Once these preconditions are met, a partnership approach is needed to acquire land in a market-supporting way that:

- meets the real and diverse needs of land-hungry, poorly housed, and unemployed people cost-effectively and sustainably;
- spreads and reinforces private ownership of land, with all the benefits that this bestows on owners, and the positive spinoffs it creates for economic growth and security;
- reinforces market processes, which are self-sustaining and in themselves redistributive;
- helps rural and urban South Africans to establish sound foundations for future development; and
- does not establish a precedent of much larger subsidies for some land owners than for others.

Using a combination of enhanced LRAD grants and (in certain instances) loan finance, a public-private partnership should acquire – through competitive purchase on the open market – significant tracts of land for black settlement and ownership in urban and rural South Africa over the next ten years. Allocation procedures will need to be entirely transparent. This public-private partnership should be staffed with people with real expertise in the cost-effective acquisition of urban and rural land.

### **Task three:** Deracialise commercial agriculture and the countryside

Urgent steps need to be taken to further deracialise commercial agriculture. CDE developed a detailed strategy for normalising the South African countryside in our 2005 report on land reform. At the core of this strategy were effective local public-private partnerships. Here, we re-emphasise the three most important steps that need to be taken.

Urgent steps need to be taken to further deracialise commercial agriculture

First, we need many more commercially viable private sector land reform initiatives throughout the country. An excellent example is the sugar's industry Inkezo Land Company, which has achieved much success in redistributing sugar land and supporting emerging farmers but is now severely constrained by land claims. CDE calls on other farming sectors to establish similar organisations in their sectors, provided government can guarantee environments in which they can realistically operate. This strategy will accelerate deracialisation by building around proven best practice in farming, prudent commercial banking practice, and normally functioning land markets.

Second, we need to make maximum use of farm worker equity schemes and BEE deals. These enable black South Africans to tap into the land and agricultural value chain at the stages where profits are maximised and not simply at the hard (and often unprofitable) end of land ownership. Several large companies are ready and willing to play an active part in making this happen.

Third, we need to create independent housing in villages for farm workers so that we can start a voluntary process to end 'feudalism' in South Africa's countryside. The custom of farm workers living in accommodation provided by their employers can be a relic of apartheid. It sometimes perpetuates social patterns that can deny farm workers their dignity. Affordable housing opportunities with secure tenure need to be created in towns and villages where, if they wish, farm workers and their families could choose to relocate. In these villages, workers would be able to lead independent lives and access education, health care, and job opportunities cost-effectively. It is essential to emphasise that the move from on-farm accommodation to independent housing will always need to be genuinely voluntary, and will need to ensure that people who do make the move are better off afterwards. There are important roles for both public and private sector actors in this area.

We need to make maximum use of farm worker equity schemes and BEE deals

The process of establishing these independent housing villages would also provide an excellent opportunity to renegotiate and amend the Labour Tenants Act (LTA) and the Extension of Security of Tenure Act (ESTA) so that, for example, a house in a suitably located new village becomes a way of settling a claim for secure tenure. Both the LTA and ESTA have proved very difficult to enforce in their present forms, have raised expectations that have not been met, and have had the perverse unintended consequence of causing farmers to dismiss farm workers.

#### **Task four:** Tackle rural poverty directly

There are some well-watered places around the former homelands where settling people on small farms could have a useful impact on poverty. But to believe that this approach could make a large-scale or cost-effective contribution to reducing poverty in most of rural South Africa is to succumb to unrealistic and backward-looking 'rural romanticism.'

Instead of using land as the sole – and often expensive – means of addressing rural poverty, we need to look at rural development more comprehensively. A key part of this is to acknowledge that urbanization is a central component of an effective rural development strategy. For many poor people in the rural areas, development needs to focus on portable assets that can be used in a variety of modern urban contexts. We have two practical and immediate suggestions.

- **The first is to call on the private sector, particularly agribusiness, and the international development community** to commit resources to the development of ideas for rural development and ‘roads out of poverty’. We need an investigation resulting in a report to the country about the role of rural areas in 21<sup>st</sup> century South Africa, and how to expand opportunities for people who live in the countryside. This investigation needs to take into account the realities of agriculture in a globalising economy, and the challenges of climate change. Very few government policies and interventions in rural South Africa have resulted in sustainable development processes. A private sector, market-based approach to rural poverty and wealth creation could be a significant contribution from business leaders and international organisations to revised government strategies.
- **Second, the government should allocate R1 billion a year for five to 10 years to a Rural Education Fund.** The fund should be managed as a partnership between the public and private sectors, and should be leveraged to have the maximum impact on providing quality education opportunities for young rural people. For example, the fund could provide bursaries to agricultural colleges; and provide bursaries to talented rural learners to study maths, science, and language at good schools, thus helping the country meet its goal of at least doubling the number of matriculants with marks good enough to enable them to enter scarce highly skilled professions such as engineering and medicine.

### **Task five:** Spend more on land reform, and spend it better

Doing all of this properly will not be cheap. The land reform budget will need to be increased significantly. This is a precondition for CDE’s suggestions to work. It is also a precondition for achieving the government’s stated goals with respect to land reform. But this should only be done if new public–private partnerships are established which provide the capacity and leverage to ensure that the money is well spent.

An increased budget must be used to leverage market forces and to fund the professional outsourcing of land valuations, land transfers, and post-settlement support. It is clear that better quantities and qualities of both land and human capital need to be devoted to land reform and rural development. However, the valid concerns of the National Treasury about greatly increasing the allocation of national resources to land issues need to be allayed.

We therefore recommend that the overarching public–private partnership overseeing each of these tasks should receive its own budget – with specified allocations to each task – and that it should report to parliament every six months on its progress and expenditure.

The government should allocate R1 billion a year for five to 10 years to a Rural Education Fund

## Change the narrative

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In all of these efforts, the public–private partnership driving the initiative would need to change the increasingly problematic language in which land reform is discussed. We need to move away from misleading Zimbabwe-style terminology, and away from unhelpful and ill-informed debates about the role of the market or the concept of ‘willing seller, willing buyer’ (which has never applied to restitution in any case). We need to move towards concepts such as co-operative relationships between state and market, sustainable devel-

opment, escaping rural poverty, and expanding educational and economic opportunity for rural South Africans. The public-private partnership needs to provide the leadership South Africa needs to show that we can resolve a difficult issue arising from our history, and do it in such a way that everyone benefits from the process.

## Concluding remarks

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South Africa must get back on track towards a land reform process that improves the lives of its beneficiaries in the long run while also ensuring that our agricultural economy will grow and continue to provide good jobs, and compete on world markets for export earnings.

At the beginning of 2008 the ANC was offering mixed messages about where land reform was headed. These mixed messages include negative signals – notably the attack on markets, and the planned regulation of foreign ownership – which reinforce the impression that land reform will remain on a worrying path. One or two more seemingly small policy steps, such as the introduction of a government Right of First Refusal, and we will be close to a disastrous trajectory.

South Africa has  
the resources  
to negotiate and  
sustain a successful  
programme of  
land reform

The future of South African commercial agriculture is now on the table. This in turn means that the economic viability of many rural regions of the country is under threat, and that there could be serious negative spillovers into the broader economy and society.

We can avoid this. South Africa has the resources to negotiate and sustain a successful programme of land reform. There is no doubt that a country which negotiated its entire political structure only 14 years ago can negotiate a new deal on land reform. Success will boost local and international confidence, increase investment, and encourage job creation. Conversely, the price of failure is very high. The country should act now in an effective and systematic way.

A national consensus on land reform is still there for the taking. Great achievements are still possible. The only question is whether leadership in the public and private sectors has the will to get land reform back on track.

Bold leadership is required now.

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