

LAND REFORM POLICIES

The South African land reform policies of the first non-racial democratic government begin with the Constitution, the Rural Development Programme (RDP) and a process of consultation involving community level research and advice from international experts, the most influential being from the World Bank.

The RDP, which was essentially the election manifesto of the African National Congress (ANC) in 1994, had five key programmes: “meeting basic needs; developing our human resources; building the economy; democratising the state and society, and implementing the RDP.”[13] Land reform is largely dealt with under the programme of meeting basic needs and also referred to under building the economy. The RDP makes clear an intention to have a process of restitution for those dispossessed of land by racial laws and a redistribution of land to those who need it. A specific target of redistributing 30% of agricultural land within five years was set. The RDP suggests a range of measures for redistributing land including a land tax to free up land, “substantial funding”, expropriation of land, and support services to ensure effective land use. It is important to note that the RDP was completed after the interim constitution was written and put its plans for land reform within the confines of the provisions on land contained within the constitution. Not surprisingly, the RDP did not go far beyond listing a lot of good intentions and wishes. It did not address difficult issues of how to avoid or deal with the consequences of disrupting existing commercial agriculture or the resistance to fundamental change that was bound to come from landowners and from international business interests. The intentions set out in the RDP would, had they been decisively acted on, have gone some way to bringing about a fundamental transformation of property relations. The test of the RDP came at the point when it had to be made into implementable policies and laws with budgets attached. The main weakness lay in the compromises contained in the section on building the economy that fell short of mapping out a path of radical economic restructuring. The few intimations in the RDP of anything outside a narrow free-market ideology, such as statements like “increasing the public sector in strategic areas through, for example, nationalisation,” were soon vanquished from future economic policies and statements. The clause already revealed an uncertainty as it fell short of saying that there would be widespread nationalisation as part of building a strong state capable of driving economic transformation. Nationalisation, became a “for example” and is quickly followed by talk of purchasing shares in companies and joint ventures with the private sector. Talk of democratising the economy and involving workers in decisions about the economy have in practice never gone beyond rhetoric.

The constitution of South Africa[14] was a result of and a key part of the negotiated settlement that ended Apartheid. Section 25 that deals with land rights was hotly debated. The resulting compromise set the political direction for the handling of land reform and set the legal parameters within which land reform has to be dealt with. The basic land to the tiller sentiment of the freedom charter that called for land to belong to those who work it was not given expression in the constitution. The sentiment, expressed in the preamble, “that South Africa belongs to all who live in it,” finds no place in the property clause. The constitution recognises existing property rights in sections 25(1) and in section 25(2) allows for expropriation only “for a public purpose or in the public interest” and with compensation being paid. Section 25(4) goes on to say; “the public interest

includes the nation's commitment to land reform." The constitution not only allows for expropriation, but makes specific mention that land reform is a grounds for expropriation. The compensation to be paid does not have to be at market rates, there are four other factors that have to be considered including "the purpose of the expropriation". Section 25(8) says that "no provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination." Sub-sections 25(5), (6), and (7) require the state to take legislative measures to; ensure that there is equitable access to land, people with insecure tenure get secure tenure or equitable redress, and people dispossessed of land rights due to racially discriminatory laws or practices can claim back those rights. These sections oblige the state to deal with aspects of land reform while also recognising current property rights. Thus the constitution is a constraint to the changing property relations in as far as it protects existing property rights, requires compensation to be paid for land to be used for land reform and does not establish clear rights to property for all South Africans or even for those who work the land. On the other hand the constitution does create an obligation on the state to have land reform and leaves space for far reaching reforms if the state is willing and able to make available sufficient finances and to implement a programme that can make the most of the land reform possibilities within the constraints.

The 1997 White Paper on South African Land Policy sets for itself a wide range of objectives ranging from dealing with the injustices of racially based land dispossession, to promoting economic growth and providing "secure tenure for all." The white paper also states that the vision is "of a land policy and land reform programme that contributes to reconciliation, stability, growth and development in an equitable and sustainable way." The White paper does not offer a vision of a transformed rural society nor does it set clear targets for land redistribution. What it offers is a process, involving compromises for the sake of reconciliation, which it is hard to imagine dealing effectively with the massive apartheid created disparities in land access and economic power. There is an emphasis in the document on giving land rights and opportunities to the poor and addressing gender issues in land ownership. But the impact of these intentions will be limited by the lack of fundamental reform of land ownership. In the implementation plans the White paper continues to compromise and fails to provide decisive programmes for fundamental change. It sets a limited role for the state and makes it clear that "redistributive land reform will be largely based on willing-buyer willing seller arrangements." Limiting the role of the state further it is said that the government "will in general not be the buyer or owner. Rather it will make land acquisition grants available". Apart from the case of Labour Tenants there is no clear intention to give rights to land to those who live and work on it such as other farm dwellers. Instead they are offered access to grants for off farm settlements and on farm settlements where the owners of the land agree. This does not address at all the difficulty of accessing suitable land in the face of the intransigence of farm owners despite the fact that farm dwellers have often lived on the land for generations.

Where the white paper completely falls down is in failing to link land reform to any broader transformation of the economy. The failure to ever mention the concept of agrarian reform appears to be no accident as the policies steer clear of any restructuring of rural economic and political power relations that would need to be part of any agrarian

reform programme. The agrarian reform that has gone on over the last decade in South Africa has involved the dramatic liberalisation of the agricultural sector and the engagement in international trade deals. These have happened with no reference to the land reform programme. Land reform policy has, in failing to set land reform as a central part of economic transformation accepted the current dominant economic system and therefore limited change in property rights to changes in land ownership that will not disrupt the economic order, but will if possible re-enforce it.

The budgetary commitments of the government are a practical expression of its policy priorities. In the case of land reform the budgets are the clearest indication of the lack of commitment to making land reform work and show that there is no intention of meeting even the limited promises made in policy pronouncements. In order to achieve a redistribution of only 30% of agricultural land over 15 years the government will be required to spend approximately R1.67billion Rand per year for fifteen years.[15] Unfortunately the government has only budgeted around R500million per year for the next three years for both redistribution and restitution (which does not always get used for land purchases). Over the last years even less than this has actually been spent on land for land reform. It has been argued that the budget is low due to the inability of the Department to spend the money. However, if there were a commitment to implementation the response to such capacity constraint would surely be to deal with capacity problems, including the personnel and programme management budgets, rather than cutting the budgets for these as is being done[16].