
OPTIONS FOR LAND REFORM AND POTENTIAL FUNDING MECHANISMS

C.C. McKenzie, C.J. van Rooyen & T. Matsetela
Associate Director, Director and Senior Policy Analyst,
Centre for Policy Analysis, Development Bank of Southern Africa

INTRODUCTION

In addressing the question of agricultural land, a future government will be faced by the following realities:

- * As the majority of people in the country see land as a major determinant of political change, a new government will be compelled to change the current pattern of ownership in agriculture within a reasonable time period.
- * Due to the sector's importance in providing food, employment, foreign exchange and its extensive linkages with the rest of the economy, a new government cannot afford to shatter the productive base of agriculture. On the contrary it will need to improve and reform certain unproductive and unsustainable elements within the present public support system to agriculture.
- * As the future political lobby will be largely urban based, the agricultural sector is unlikely to receive the levels of local public finance that it enjoyed in the past. The amount of financial support expected from foreign donors for land transfer purposes is unclear at present.
- * International experience has shown that nationalisation and resettlement programmes are costly, lead to crippling time delays, open up avenues for corruption and often result in productivity losses. All these problems have

been confirmed by our own abortive "Trust Land" transfer programmes where the State expropriated land with the view of settling new farmers.

Taking these realities into account, the problem can be restated as follows:

What mechanisms can a future government employ that would result in an acceptable change of land ownership, within a reasonable space of time and cost, without damaging productivity or creating civil unrest?

FUNDAMENTAL ISSUES TO BE ADDRESSED

The Development Bank of Southern Africa (DBSA) believes a "State Assisted, Market Based Land Reform Programme" presents a viable solution to the land problem. The following fundamentals would however need to be addressed:

1. Land markets require clearly defined property rights in order to work and to ensure the security of tenure necessary for investor confidence. A new constitution should therefore guarantee the full spectrum of property regimes from private property, to State property including all forms of corporate and communal ownership. These intermediate forms of ownership are extremely important in that they allow groups of individuals to own land. In addition various forms of land tenure such as leasehold, share cropping, labour tenancy should also be supported if they meet the objectives of the local partici-

pants and the reform programme at large. Preconceived ideas about farm size or notion that one ownership model will fit all circumstances are simplistic.

2. A land reform programme must recognise that much of the "rural land hunger" is based on needs other than agricultural production. These are legitimate needs and should also be catered for within a land reform support programme. Urban and non-agricultural needs should also be catered for.

3. State assistance must be clearly targeted. It is suggested that this target group be divided into those with specific claims and those with generalised demands based on the denial of access to land in the past. The constitution should include compensation principles, both specific and general, which would be dealt with as part of a land reform programme.

Specific claims are those where there is claim to a specific parcel of land based on some prior agreement, or previously recognised right. This includes areas such as black spots where people held title or other legitimate rights to the land were held.

Criteria defining who has a general right to restitution or State assistance would need much thought and are not dealt with in this paper. It is however clear that such general claims would have to be satisfied largely by changing ownership patterns in the commercial farming areas.

4. The government should not own land for purposes of land reform, but it could in the future expropriate land for purposes such as national parks, public works, harbours, etc. A new constitution would therefore need to specify under what circumstances it could expropriate land, as well as the compensation principles associated with future expropriation.

5. A rural land reform programme must activate participation at the farm level and rural inhabitants and be flexible enough to support local home grown solutions.

6. Although land reform efforts by the State should capture the opportunities provided by market based land exchange, certain safety net mechanisms will, however, be required. A reality is that certain rural dwellers, notably the landless, might be adversely affected by land reform measures. Safety nets should therefore be structured to accommodate possible "losers".

LAND REFORM STRATEGIES FOR DIFFERENT LAND CLASSES

One can distinguish three broad land classes in South Africa. That held under communal tenure in the homelands, that held by the State and that held under private ownership mainly in the commercial farming areas. A further class is that currently held under any of these forms, but is presently in dispute. It has already been pointed out that in order to result in a politically acceptable change, there would have to be significant changes in ownership patterns in the commercial farming areas. Other classes of land, however, also deserve some attention.

Private land in the commercial farming areas

In order to effect a change in ownership, the State can assist individuals or groups to acquire land offered for sale on the market or to buy into existing going concerns.

Between 1980 and 1991 over 42,5 million hectares of agricultural land was transferred by the land market⁽¹⁾. This represents approximately 50 per cent of commercial farmland. Although the same land could have changed hands more than once and many transfers were within families and companies it proves that land markets are capable of transferring significant amounts of land within reasonably short time periods. The role of the State in a market based land reform programme is to en-

sure that the market transfers land into the correct hands.

Various policies could be employed to promote private transfers to disadvantaged individuals or groups of individuals. The first critical issue is the repeal of the Land Sub-Division Act. This will allow existing owners to sell portions of their holdings or allow land bought by groups of individuals to be subdivided at a later date should they wish. Some possible options are as follows:

- a) Subsidised credit or once-off grants for the purchase of land and equipment to disadvantaged groups.
- b) Remove transfer duties and estate duties on land and equipment if the transfer is made to disadvantaged groups. This will also give an incentive to the current owner.
- c) Subsidise transaction costs ie surveying, registration, pre-feasibility and valuation costs to disadvantaged communities.
- d) Allow disadvantaged groups to write off land purchase costs against tax.
- e) Require that all land sales be held by auction and allow the State to publicise information to its target group. One could also allow the State a short period of time to introduce other potential buyers who could either re-negotiate or better the price.
- f) Allow certain State debt to be written off if the transfer is to disadvantaged sectors.
- g) Set up advisory bodies to aid in the purchase and establishment of new enterprises.

Once the land transfer has occurred it would be necessary to introduce a comprehensive farmer support programme namely providing credit for rural infrastructure, fixed improvement, movable assets, production inputs, marketing, training and extension. These are where the real costs of land reform occur.

Obviously the more that existing enterprises are fragmented and cut up into smaller units the greater the degree of new settlement the greater the costs will be.

Another much cheaper option is for the State to assist farm workers to buy into existing farming operations. Many farmers are currently faced with the option of either selling their entire operation or remaining in farming by getting into a partnership arrangement with either their workers or an external investor. DBSA is currently involved in certain pilot projects which involve financing farm workers to obtain shares in the farming enterprises. This involves a combination of DBSA and Industrial Development Trust (IDT) finance and the restructuring of existing commercial and Land Bank debt.

The advantages of this model are tremendous cost savings as one does not have to resettle, provide new support structures, start up new ventures, etc. The model is a local solution favouring both parties instituted by mutual agreement. Joint ventures tend to hold appeal across a wide political spectrum. From efficiency point of view, it is superior to other reform models in terms of cost and productivity. Much of the public sector costs required under other models such as the provision of new public infrastructure ie roads, water supply, etc and the financing of new on-farm infrastructure, movable assets, training and extension etc are eliminated or negligible. Another advantage is that it eliminates production losses associated with the start up period in new enterprises. Advantages from the farmers perspective are retaining a share in the enterprise, writing off debt and placing the enterprise in a sound debt position, a more stable and better motivated work force and reduced exposure to other forms of land reform. The workers gain an increase in total income, a stake in ownership, decision taking and profits, more security of tenure and a mechanism to accumulate capital.

An obvious area for providing access to land is to be found in urban and peri-urban farming. At present some 850 000 hectares of land around towns and cities in South Africa are zoned as agricultural small holding. This type of farming has two major attractions, namely the proximity of markets for the purchase of

inputs and other farming support service and the sale of high value produce such as flowers, vegetables, dairy products, etc. Urban agriculture is therefore one of the major avenues through which relatively large number of farmers could gain access to land and farming opportunities in a relatively short period of time. What is being proposed is not only restricted to current small holdings, but rather to additional land surrounding the existing extended metropolis. Zoning to protect high potential agricultural land from urban expansion would need to be instituted.

Land reform strategies in communal land areas (homelands)

No legal market mechanisms to transfer land currently exist in the homelands. All official land transactions within the community are determined by the chief. While this communal tenure provides a good community safety net, it has productivity limitations. Moving to freehold tenure immediately in the homelands could, however, result in a landless class. Research by Lyne⁽²⁾ shows that the introduction of intermediate forms of tenure such as a rental market, would lead to both productivity and equity gains. The original land holder would receive a rental stream and land would transfer to the most effective farmers. The less permanent nature of rental or sharecropping would eliminate the danger of a landless class. It is therefore proposed that intermediate forms of tenure be legalised in these areas.

DBSA proposes that communal areas be financed under the so-called "Farmers Support" philosophy. A Farmer Support Programme (FSP) is primarily directed at those already farming on communal land areas. A FSP package consists of providing credit for rural infrastructure, movable assets, production inputs, marketing, training and extension. These elements are taken up on demand and aimed at a wide range of rural dwellers. The current DBSA financed FSP programme has achieved a significant amount of success but would need to expand significantly. In addition a facility to finance land rental would need to be introduced. Evidence from FSP financed by DBSA shows that the provision of the appropriate farmer support services generates an economic value and encourages market related land transactions. There is a need,

however, for the law to recognise these arrangements in order to reduce the risks associated with informal transactions.

Bureaucratic relocations of tribal land necessary for land consolidation and farmer settlement on planned farming schemes are not recommended in the homelands. Besides excessive cost associated with this strategy it creates great conflict potential. Farmer settlement project strategies are thus not recommended unless fully supported by a community and supported with proper compensation measures.

The problem of landless persons on tribal land also needs to be addressed within an integrated development approach including access to land, small business and industrial programmes, urban settlement and appropriate poverty and welfare "safety nets". Large numbers of poor rural dwellers are landless and live on very low levels of welfare. Opportunities to accumulate wealth are virtually non-existent and their inability to participate in market actions create particular problems. Land reform could easily by-pass this class and will worsen their access to live support systems. Social security or safety nets through food programmes, income and labour creation programme, "life-line" water supply systems, etc will have to be established to serve such groups. A particular problem in the implementation of safety net programmes is capacity at "grass root" level. Some non-governmental organisations (NGO's) are often structured to render such support. However, a proper support system for safety net programmes are still embarrassingly lacking in South Africa as is illustrated by present efforts to reach the poor through food aid and drought programmes.

Land reform strategies on State owned land

Comprehensive figures on total State holdings have not been officially compiled. It is only recently that attempts have been made to compile a national register of State land (cf. DBSA's project on land law, which is ongoing for the next three years). The incompleteness of the information is exacerbated by the phasing out of DDA and possible dismember-

ment of parastatals which were directly involved with the issues country-wide. Over the years the State acquired land for four main purposes. For domestic purposes such as prisons, defence buildings, etc, for public purposes such as forestry water supply, etc, for development purposes and settlement and by parastatals such as the State Trust Corporation. It is estimated that the State currently holds 13 million hectares outside of the homelands; approximately 8 million hectares is under conservation, forestry or water works. In terms of the 1913 and 1936 Land Acts, South African governments have through the years voted various sums of money to purchase over 17,6 million hectares of land for black occupation as well as consolidation with the existing homelands. Approximately 1,25 million hectares have, however, not been transferred as yet and are under the control of the Minister of Regional and Land Affairs. Of this, it is estimated that approximately 700 000 hectares are already permanently occupied, 280 000 hectares are leased to the State Trust Corporation and 240 000 hectares are leased mainly to white farmers. It cannot be established how many farms there are, what the various sizes of these farms are, where they are, when were they purchased, what price was paid and who has been the *de facto* owners. In addition, the land has a history which invariably forms the basis for disputes and accompanying claims which individuals and communities have against the State.

Various strategies could be employed to allow disadvantaged groups access to land. Where land is currently occupied, tenurial rights could be upgraded and various programmes such as the Farmer Support Programme, currently targeted at homeland areas, applied. Where land is unoccupied it could be offered and purchased only by disadvantaged groups through the same mechanisms as outlined in the previous section. Strategies should be directed to the provision of opportunities to fully fledged commercial farmers as well as emerging farmers or to support poverty alleviation. Landless persons could also be accommodated on such land through farmer and non-agricultural support programmes.

Before this took place, however, a mechanism

to register historic claims would need to be established. Until then it would be advisable to place a moratorium on the sale of State land to the private sector. In sympathy the extra-parliamentary groups would need to actively discourage land invasion. "Squatter" situations will require careful consideration and a combination of support strategies might be appropriate.

Lands under dispute

It would be naive to expect that a land reform could be embarked upon without specific account of the need to redress past injustices. Some 1,3 million people were dispossessed of their rights to land in the white farming areas up to 1982. The acknowledgement of a need to address such claims is of vital importance in lending credibility to any land reform programme. The transfer of land subjected to disputed claims should be suspended until resolved. State land currently being sold (mainly to white farmers) must be included in this arrangement where applicable.

While the principles, criteria and feasibility of a land court will still need to be agreed upon, a system of mobile land courts which would adjudicate all specific land claims in a particular area in a short period, and then move to the next area, could be feasible. The court may insist that before taking a dispute to court, the parties must engage a State facilitator in an attempt to settle at local level. After the court issues a ruling, the parties may still have the option to negotiate an alternative within a limited time period. In order to prevent a never-ending process the State could specify a period after which all specific claims would be nullified.

FINANCING OF A MARKET ASSISTED LAND REFORM PLAN

The State could use a number of different methods to finance a land reform programme. A conventional method would be to restructure existing institutions or create new public finance institutions that would provide loans and grants to new farming entrants. Another way would be to capitalise the target population itself through a voucher system. It could issue land purchase vouchers which could be

pooled by communities or used individually to buy land and other assets from willing sellers. Land vouchers could also be used in conjunction with own equity to raise further credit through private and public sector banks. Technical assistance vouchers could be issued so new entrants could buy the necessary expertise to assist in the establishment of new enterprises.

Given the costs associated with land reform programmes it would be necessary to mobilise as much external aid and local private sector capital to complement revenues obtained from the local tax base. Possible sources of finance are earmarked taxes, non-recoverable farm debt held by public financial institutions, loans from commercial banks, external grants from donors, loans from external development banks and even venture capital in certain instances. A certain percentage of income tax could be allocated to land reform. In addition revenues raised from land transfer duties, land estate duties and production levies could also be allocated to a reform programme. Land taxes could also be considered but it is recommended that they only be used to finance local programmes. As has been pointed out there are significant opportunities to restructure State and even commercial debt. Another possibility could be for developed countries to use tariff income derived from South African exports to finance land transfers in South Africa. It is possible that countries with strong historical ties in South Africa such as the U.K. and The Netherlands, as well as other developed countries could be sources of finance for a land transfer. Other multilateral and bilateral agencies such as World Bank and others could be significant sources of finance for various forms of technical assistance.

Current financing arrangements

Both public and private sector financial institutions presently demonstrate an inability to address the needs of black entrants wanting to enter the commercial areas. This currently represents a major constraint to a market based land reform option and renders the repeal of Land Acts almost irrelevant in the eyes of aspiring black farmers.

Risk and high transaction costs and overly rigid securitisation stipulations are important reasons

why commercial banks have played a limited role in financing of black farmers. Much of the blame must however lie at the door of public sector institutions for failing to adjust their own internal policies to meet the needs of this sector and for failing to use their ability to soften risks and interest rates in a manner that would allow commercial banks to enter the market. For instance, the Land Bank has been unable to adjust its internal policies to meet the financial needs of those outside their conventional market (commercial sector), even after changes to the Land Bank Act in 1988. The Agricultural Credit Board on the other has focused on the needs of existing farmers rather than on new entrants. The Development Bank of Southern Africa, is presently constrained by internal policies which prevents it from financing the transfer of land.

Theoretically, there is no reason why the needs of disempowered farmers could be met through co-operation amongst these organisations. So far, however, this has not been achieved. In order to remain relevant, even if only during the political transitional period, existing public sector institutions will need to change their missions, structures and activities significantly. The Land Bank and Agricultural Credit Board would need to establish a closer alliance with institutions such as DBSA and the Independent Development Trust, etc, in catering for a comprehensive support package to support all categories of farmers and farming models. Although DBSA is guilty of not acting sooner, it is currently involved in a number of pilot projects in the commercial farming areas which are aimed at pioneering joint financing arrangements between private and public sector.

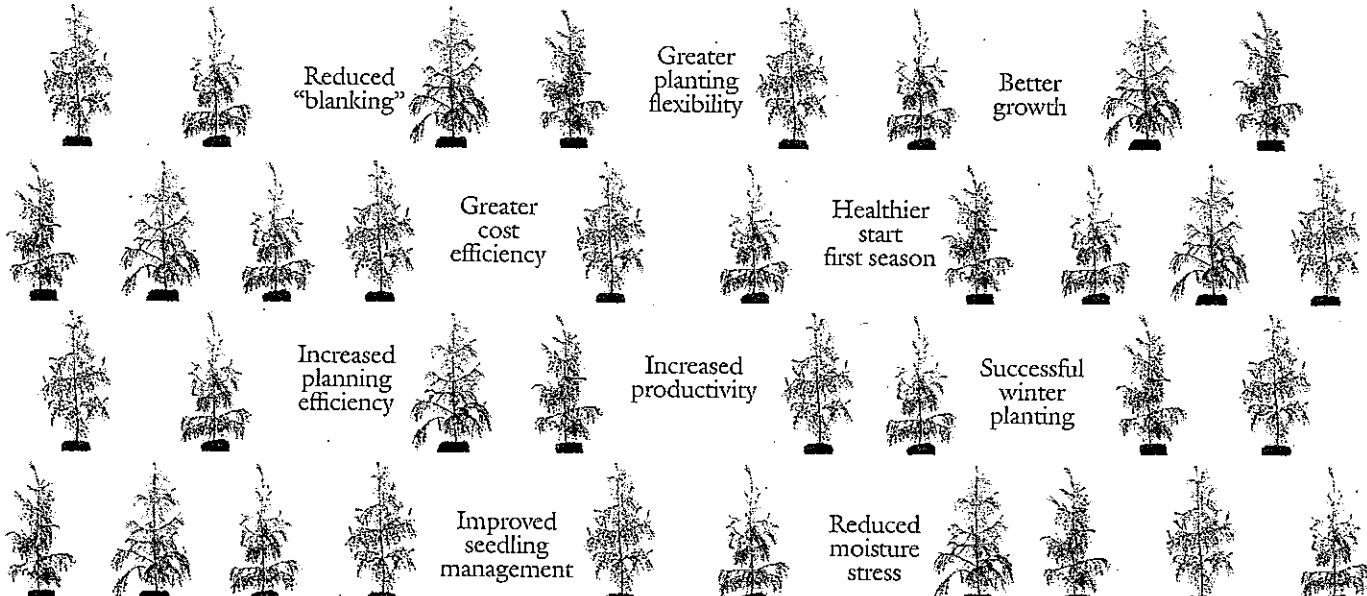
CONCLUSIONS

While different strategies will be required for different areas of the country, a market based land reform could transfer significant amounts of land to previously excluded groups, within a reasonable space of time, if adequately supported by the public sector and the necessary legal and institutional arrangements are made. The strategy holds many advantages over the traditional approach of the State buying or nationalising land for resettlement. Productivity losses and crippling delays brought about by

bureaucratic incompetence can be largely avoided. Public sector costs could be tempered significantly by the introduction of external donor and local commercial finance. Lastly, the market tends to encourage local solutions between current and future land owners which would lead to less social tension.

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