

Debating a failed land reform programme

In July thousands of delegates – including those from the landless constituency – came together to discuss the country's land reform programme. The summit was the first time such a wide range of organisations had come together to discuss the issue since the launch of the land reform programme 11 years ago. **Samuel Kariuki** discusses the differences and trends in thinking that emerged.



The summit was convened because major blockages had led to the transfer of only 4.3% of South Africa's land, which highlighted the need to define a future model for successful land reform. To create fast-tracking strategies to meet the 2014 target of redistributing 30% of agricultural land, the summit hoped to facilitate partnerships underpinned by a shared vision across state departments, NGOs, organised agriculture, the donor community, and the private sector. But widely conflicting views on land reform emerged.

DEBATING LAND REFORM

The debate has tended to centre around two different views. The first is concerned with justice and takes as its point of departure the fact that whites, the minority of the population, seized 87% of the land, while allowing a miserable 13% for the indigenous population. By 1996 less than 1% of the population owned and controlled over 80% of farmland while an estimated 5.3 million black South Africans lived with almost no security on commercial farms owned by white farmers. This history gives rise to the

belief that justice must be done either in the form of compensation or restoration. The burden of compensation however does not fall on the current white owners but with the state.

The use of history as the sole basis to define the outcome of land reform has been questioned. A recent report by the Centre for Development and Enterprise (CDE) puts the alternative argument clearly. It argues that the South African land reform programme is based on 'rural romanticism' and that the programme is driven by the political and moral concerns of redress. Land, it believes often becomes a metaphor for power in political transitions where it is the site of reconciliation between opposing forces.

In South Africa this was evident in the lead-up to the 1994 elections. The state transferred communal land in a number of areas directly into the control of traditional authorities. In KwaZulu-Natal, 30% (1.2 million hectares) of land in the province, 95% of the former KwaZulu homeland, was given over to the control of the King. It was a secret agreement between the ANC, the Inkatha Freedom Party (IFP) and National



Party, and was a trade-off for the IFP taking part in the 1994 elections. In such cases, land reform policies do not redress inequalities but merely tinker with land ownership in order to satisfy different constituencies in a new political order.

In the light of such arguments the CDE contends that it is more effective to base land reform on the realities of a modern sophisticated urban economy.

While such debates rage across Africa, it often goes unnoticed that reforms are usually not designed to produce radical land redistribution patterns. Land reform is often used to strike a delicate balance in the political, economic and social forces that shape the political transition.

Reform policies often have to serve different priorities. Nation building and national reconciliation on the one hand, and the dictates of a global competitive economy on the other. In achieving these disparate goals it becomes clear that the South African land reform programme is overburdened with unrealistic expectations, which do not acknowledge the financial and institutional obstacles that need to be overcome. Reform policies are 'overburdened' by the multiple objectives of different interest groups and this was very much in evidence at the land summit.

VIEWES FROM DELEGATES

Various delegates stated that African identity was linked with ownership of ancestral land and was a point of identity. The South African Council of Churches strongly emphasised this symbolic aspect of land. The

Freedom Front too spoke about the symbolism of land. Afrikaner attitudes to land were typically based on romantic notions of the 'Great Trek' into what they view as unoccupied land. They later embraced the ideology of separate development, which resulted in forced removals, and resettlement of millions of black people. Many Afrikaners have moved away from this position and instead emphasise the economic contribution of white commercial farmers and their role of ensuring South Africa's food security. This view was espoused by Agri-South Africa in defence of current market-based land reform.

The ANC emphasised its historical commitment to the previously disenfranchised and poor black African majority. Land reform represented a promise of equality, social justice, and improvement in the quality of life. It also put forward the idea that the attainment of this goal depended on the extent to which there was mass mobilisation around land issues.

As ANC secretary general Kgalema Motlanthe expressed it: 'The voice of the property-less must be heard and the property-less must come up with radical suggestions because if they have modest demands, they will get nothing'. It was clear from his views that dealing with land dispossession was a moral issue, which required bold solutions to reverse.

PILLARS OF LAND REFORM

Currently three key pillars of government land reform exist. These are redistribution, land tenure reform and land restitution. These pillars acknowledge the multiple objectives of government's reform programme. The broad aims of the land reform policy are to redress the injustices of apartheid, foster national reconciliation and stability, underpin economic growth and improve the household welfare of the poor and landless.

The land restitution programme is primarily concerned with redress for the victims of forced removals. Three and a half million people were forcibly removed between 1960 and 1983 alone. For claimants, land is an economic asset than can be worked and also has a non-financial value in the sense of reclaiming what was 'lost'. It is a basis for rebuilding communities that were destroyed through brutal land dispossession.

Land restitution rests on claims where people can prove that the dispossession occurred earlier than 19 June 1913. Restitution policy is guided by the principles of fairness and justice.

Restitution takes different forms. These include the restoration of land to the dispossessed, provision of alternative land, payment of compensation, alternative relief including a combination of the above, sharing the land, or financial assistance with services and infrastructure development where claimants now live. It also embraces priority access to state resources in the allocation and development of housing and land in a development programme.

Claimants lodged 79 000 claims with the Commission on Restitution of Land Rights (CRLR) before the 1998 cut-off date. By 30 June, 2005, 62 127 claims had been settled, at a total cost of R4.9 billion. Of this R2.5 billion was paid out in financial compensation, and about 900 000 hectares of land was redistributed at a cost of R1.9 billion.

So far, nearly 900 000 people have benefited from the restitution programme. The key debates around restitution concerned the re-opening of the 1913 cut-off date and the re-opening of the application process, which ended in 1998. Organisations such as the Landless People's Movement (LPM) and the Alliance of Land and Agrarian Reform Movements (ALARM) believed this would speed up the process.

Delegates also felt that settlement support that involved the development of infrastructure and training was essential. People advocated a shift from the dominant model of cash compensation believing that land and housing were better forms of compensation. Delegates also put forward the idea that a commission similar to the Truth and Reconciliation Commission should be set up to deal with the emotional and social trauma caused by dispossession. This would be important in the promotion of reconciliation and mutual understanding within South African society.

The second pillar, tenure reform, refers to land rights, which either restore or give legal recognition to informal land tenure. Areas where blacks live and work on white farms carry some of the worst poverty in South Africa. Lack of development, collapse of land

administrative systems and overlapping and conflicting informal land rights abound. Tenure rights, delegates believed could be addressed through the new Communal Land Rights Bill (2004), the Labour Tenant Act and the Extension of Security Tenure Act, which offer a means to attain tenure rights and to guard against unfair evictions, by farm owners.

Mechanisms to gain such protection and to gain land rights are however highly legalistic and disempowering for communities. The Land Tenure Commission advocated that a moratorium on all evictions should happen until new legislation and programmes are in place to defend farm workers. This position was not supported by Agri-South Africa who felt that legal evictions should be possible and municipalities must create programmes to accommodate the evicted.

Most delegates' major concern was that the security of tenure of farmworkers and farm dwellers must be strengthened through a revision of legislation. A priority was to increase farmworkers' awareness of their rights and to build the capacity to implement the legislation. Capacity building needed also to incorporate a development programme to improve these farm dwellers' lives.

The summit also gave a platform to organisations who had a vested interest in using land reform to increase control over land ownership and hence to extend their power base. This was the case with the Congress of Traditional Leaders of South Africa (Contralesa) and the IFP. The IFP strongly argued in favour of communal land tenure and the need to strengthen the tribal authority. They asserted that communal ownership in terms of indigenous customary law must take precedence over private and state land ownership.

The third pillar, land redistribution, is managed by government's Land Reform for Agriculture and Development (LRAD). It aims to transfer 30% of South Africa's medium and high-quality agricultural land (estimated at 25 million hectares) to blacks over the next 15 years. Blacks wanting to farm can access grants under LRAD on a sliding scale, depending on the amount of their own contribution in kind, labour or cash. Community members who lack finance can contribute 'sweat' equity, which is either their

labour or assets, and in turn they will qualify for a minimum government grant of R20 000 to buy land.

The failure of the grant system, the minimal role that government has played, the lack of post-settlement support and the problem of sellers demanding huge prices for their land were big issues at the summit. The willing buyer model of land reform was especially debated.

Organised commercial farmers were represented at the summit through Agri-South Africa and the National African Farmers Union (NAFU). Their influence is evident in government's LRAD programme and is an example of 'post-transition pacting between the state, white agricultural capital and a small but significant class of black farmers... which has an interest to maintain property prices and confidence in the land market'. A point of difference however between NAFU and Agri-South Africa was NAFU's support for the scrapping of the willing buyer and willing seller principle of land reform.

Most delegates from the Land Redistribution Commission advocated the rejection of the willing buyer principle with the exception of Agri-South Africa. The Commission held that the state must have the right of first refusal on all land sales. It also advocated a moratorium on new golf courses and new game farms along with the privatisation of forestland. It recommended better-coordinated and resourced support for those buying and working land for the first time.

The Commission noted that much of government's approach to land redistribution was based on acquiring land at market prices from willing sellers. The summit recommended that the principle of 'willing buyer/willing seller' be rejected. Delegates noted that the Constitution provides for the expropriation of land with just compensation from government. Government had however scarcely used its right to expropriate. The Commission recommended that expropriation be used together with participatory and people-centred methods. Such methods should be area-based and planned so that land and agrarian transformation take place in the context of wider development goals, particularly through the Integrated Development Plans (IDPs).

Delegates asserted that market based land reforms are underpinned by questionable ideas around efficiency, cooperation and non-confrontation. Such ideas had simply not worked due to the limited size of grants and the 'demand driven' nature of market-based land reforms. Land markets, delegates believed, lacked a 'moral and political conscience' and left to their own devices led to the concentration of prime land among landed elites. Most participants in land reform programmes had only acquired marginal land unfit for successful farming. Lack of post-settlement support was also to blame for this failure.

Agri-South Africa opposed this approach arguing that land markets as an instrument of land reform were useful because it was important to conduct an 'orderly' land reform process, which did not disrupt national food security. It argued that the role of commercial agriculture in South Africa was to provide food in a sustainable way. It implied that land reform policies, which target equity as a priority, run the danger of lowering efficiency and growth in a modern economy, which could lead to a decline in national food production. It was through such arguments that Agri-South Africa aimed to maintain the status quo.

Some delegates also criticised the land redistribution programme for lacking a gender perspective. They believed land reform gave women the opportunity to claim independent land rights. Gender activists often had an inflated expectation of land reform being able to change unequal rural gender relations. In response it was argued that land reform was only one aspect of the multi-faceted nature of super-exploitation that rural women experience and putting in place programmes that challenge gender inequality is very difficult.

In all these debates the strong need for historical redress and the need to reverse rural poverty through land reform came through. The gap that marked these discussions was on who should bear the cost of land reform and how much land was available for a comprehensive redistribution.

THE POSSIBILITY OF SUCCESS

Debates about land reform often neglect to deal with whether South Africa's resources can meet high expectations of land reform -

a responsibility that is seen as belonging to the ministry of Land and Agriculture. One of the problems is availability of land, and the cost of making a large supply of prime land available to the rural poor. Only around 15% of South Africa's total agricultural land is arable. Much of this land is not used because the owners are too far from agricultural markets, or they find it is too risky to invest in farming compared with other sources of income.

Sufficient water is also a problem. Water is a limited resource and about 50% of all water in South Africa is used for agriculture. This combined with the increase in production costs and the sharp reduction in government subsidies, has made commercial farming more demanding and competitive. As a result, the number of commercial farmers (mainly white owned) has dropped from 78 000 to 45 000 over the past 15 years. A significant new trend is ecotourism and game farming.

Most farms, owned by about 45 000 farmers, are large. This is partly because the sub-division of Agricultural Land Act (1970) has prevented the development of smaller farms. The large size of farms has been one of the major obstacles to rural people being able to afford agricultural land. There is little prime agricultural land available on a small-scale basis.

The state itself owns little land. About 12% (12.5 million hectares), excluding the former homelands, is state owned. To reach its 30% target government would need to redistribute 20.6 million hectares of commercial agricultural land - an average of 1.87 million hectares a year. So far, delivery has averaged at 0.38 million hectares a year. This means that delivery will have to increase fivefold to meet the 2014 target. At the current pace, government will reach the 30% target in 54 years' time.

The contribution of agriculture to overall economic development in South Africa is quite minimal. It is estimated at less than 5% of GDP and employs about 10% of South Africa's formal jobholders. It constitutes about 8.4% of the country's total export earnings. Agriculture however is the third most important livelihood in rural areas, after wage labour and state pensions. About 18% of rural households see

agriculture as their main source of income.

Land reform however has not given a livelihood to the many poor people it wishes to support. In many projects, little or no production is taking place. This is due to a range of factors, including the lack of capital, unsuitable project design, lack of land and support from state and other agencies, lack of skills and infighting. In all three pillars of land reform (restitution, tenure and redistribution) rural people's lives have rarely changed. This means that meeting the 2014 target of redistributing agricultural land and growing a viable agricultural sector, is a massive task that a single government department cannot achieve on its own. This was rarely recognised in debates at the summit.

Three factors emerged at the summit for the implementation of a successful land and agricultural reform programme. These were the need to create partnerships, to employ fast-tracking strategies and the importance of meeting the 2014 targets. It is clear that land reform cannot be a purely state-centred national project. There is a need to create partnerships. But the possibility of such a partnership was not forthcoming from commercial agricultural represented through Agri-South Africa. This was clear when it refused to support the popular demand to scrap the willing buyer/willing seller approach to land reform.

The Minister of Land Affairs and Agriculture Thoko Didiza admitted that government land reform is not working but that there was a need to pursue reform within the confines of the Constitution. She commented in her closing speech at the summit, '... government needs to reflect guided by the Constitution, and decide what can be done in order to ensure the security of tenure of all individuals in South Africa.' In effect any proposal that could have constitutional implications, for example, expropriation without compensation, as in Zimbabwe, would not be embarked upon.

Successful land reforms often come at a price. Nowhere in the world has the agrarian crisis been solved in a friendly manner through the 'barrel of the market'. The best-known successful land reforms, for instance in China, Japan and South Korea, have involved little or no compensation for land confiscated from landlords. Indeed,

many people say the explosive economic growth of these countries is due to the successful implementation of land reform, which was seen as a major part of sustainable development and poverty reduction. The power of the rich landowners was broken, and tenants were able to own the land. A major lesson from Brazil was that partnerships are useful strategies in achieving land reform. Brazil was able to fast-track land delivery through the use of a 'progressive social clause' that allowed for the expropriation of unused land.

Within South African, it seems breaking the powers of landlords is an unlikely route because of the country's fragile democracy. The use of the expropriation clause however will hopefully fast-track land reform. The Zimbabwe case, presented at the summit, demonstrated the harsh measures that international capital is capable of taking if an unconstitutional land reform programme is adopted.

There was wide agreement on the need to scrap the willing buyer/willing seller approach and to develop a state-driven, well resourced, coordinated and integrated land reform programme. Delegates also endorsed the need to create holistic tenure legislation to protect the tenure rights of farmworkers, farm dwellers and labour tenants. It was recognised that newly emerging farmers need greater support from the state, and agri-infrastructure such as extension services, training, marketing and financing of agriculture/land reform must increase.

The critical question: Is it possible for a single department such as the ministry of Land Affairs and Agriculture, to marshal the required resources, and capacity? This was reflected in the ministers' closing remarks that her department was caught between the devil and the deep blue sea. Hardly any country has succeeded in its land reform programme solely through the barrel of the market. It is clear that South Africa cannot succeed solely through the market route especially in the light of Agri-South Africa and their supporters the Freedom Front and Democratic Alliance espousing a vision in favour of organised commercial agriculture.

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