

PUBLIC DIALOGUE

Beyond populism or paralysis: a *real* debate on South Africa's land reform trajectory

On 24 October 2011 the Institute for Poverty, Land and Agrarian Studies (PLAAS) convened a public dialogue on South Africa's land reform trajectory at Townhouse Hotel and Conference Centre in Cape Town. Present were a wide range of actors from researchers and academics, social movements and civil society, the private sector and provincial government.

The aim of the session was to engage in informed and constructive dialogue around the issues concerning land reform and rural development with an immediate objective to work towards alternative proposals for a new legislative framework on Land Reform in South Africa. An envisaged output in the short term was a joint, or several collaborative formal comments on the Green Paper on Land Reform recently released by the Department for Rural Development and Land Reform (DRDLR), to be submitted before the 25 November deadline.

A longer term outcome that emerged from this engagement is to mobilise a network of actors at different levels of the rural sector, to share information and discuss, develop and advocate through an inclusive and transparent process, alternative proposals for a new policy framework for Land Reform in South Africa.

The idea of forming an online group with those who were part of the dialogue, and including more interested participants as we go along emerged from an expressed desire to acknowledge what kinds of materials, proposals, comments and critiques are heading towards the Department for Rural Development and Land Reform until 25 November – as the expectation of this kind of engagement is that all inputs will disappear into a 'black hole'.

Workshop Summary

After introductions and a brief overview of the day by facilitator Obiozo Ukpabi (PLAAS), a base map was introduced by co-facilitator Rick de Satgé (Phuhlisani Solutions). This map featured [a short historical overview of land reform in South Africa](#).

De Satgé remarked that although since the beginning of the land reform programme in 1994 there had been numerous reviews of virtually all aspects of the programme, none of the insights emerging from this research are reflected in the current Green

Paper. The Green Paper simply ignores all the lessons we have learned from land reform in the past 17 years, including

- a) its land acquisition strategy,
- b) its beneficiary support system,
- c) beneficiary selection for land redistribution,
- d) land administration / governance, especially in the communal areas,
- e) the 30% redistribution target (to be met by 2014),
- f) declining agricultural contribution to the GDP,
- g) unrelenting increase in rural unemployment, and
- h) a problematic restitution model and supporting systems

Instead of drawing on lessons learned and addressing the issues and problems at hand with a coherent framework for land reform policy, the Green Paper proposes a number of institutional mechanisms, a recapitalization and development programme, and a land tenure system of which none of the four tiers are clearly defined – leaving gaps and silences on most of the urgent and key questions facing land reform in South Africa.

Rick called on the participants to reimagine a ‘connected and inclusive policy landscape essential for successful land reform’ and to add to his rough draft of this policy landscape, by locating themselves and their work into the picture. This resulted in some additions to the original picture presented by Rick and the key questions as raised earlier by PLAAS.

Introduction

Six key questions about land reform that are not addressed in the Green Paper, with additions from participants

1. WHO should benefit from land reform?

This is not clear at present. There is an absence of a broader socio economic analysis which impacts on lack of clarity within Green Paper.

Additions: Rural poor, farm workers, women need to access land and people who have been dispossessed through betterment planning

2. WHAT changes should land reform bring about?

There is a need to clarify what land should be acquired

3. HOW will land be acquired?

4. HOW can projects be better designed?

Additions: Improve alignment between DRDLR and Agriculture

- *Better clarification of land needs is essential to inform project design*
- *Because conditions and circumstances vary enormously across country, there is a need for locally appropriate solutions*

5. WHERE should land reform happen?

Additions: How is District land use policy to be aligned?

- *Set targets for good quality agricultural land that is well located*
- *Need for a spatial plan and spatial logic*

6. HOW can tenure rights be secured?

Tenure issues have been relegated to parallel process

7. Addition: Need to see land reform as part of broader economic policy

Wider vision for restructuring:

- *Dismantling anti-competitive monopolies throughout value chain*
- *Clearer procurement policies which target small scale producers*

Critique on the Green Paper by Ruth Hall

After this introductory session short presentations from Ruth Hall and Ben Cousins of PLAAS respectively critiqued the Green Paper on Land Reform and suggested alternative ways forward.

Ruth summarised the process of rural mobilization and policy formulation since 1994, with key moments in 1997 (White Paper on Land Policy), 1998 (Departmental reviews, assessments and critiques), the Durban Land Conference of 2001, the 2004 National review and in the same year national reviews of the commonage programme, the 2005 Land Summit where the willing-buyer-willing-seller model was acknowledged as a constraint to land reform and the 2007 Polokwane Conference where it was said that a new White Paper on Land Reform must be developed. She remarked that oddly, although processes of policy formulation and consultation, especially until 1997, have been highly inclusive, the outcomes have been increasingly exclusive.

The Green Paper, which has emerged from all this simply does not relate to the reality of land reform. The four tiers of tenure that are introduced already exist, but the document does not propose how they will be changed. Of the different mechanisms that are introduced, a Land Rights Management Board (to communicate with farm owners, farm dwellers and others, to develop systems to record and register land rights, and to provide legal representation where necessary) and a Land Management Commission (to advise, provide guidelines, coordinate, regulate, audit and act as a reference point for the Ministry) are kept quite oblique and there is no suggestion of how they will use their powers. Some of the proposals are useful: a Valuer General can bring certainty and clarity around valuations and expropriations processes. The implication is that the state will pay just and equitable compensation in cases of expropriation, which is in line with Section 25 of the Bill of Rights in the Constitution – though it does not clarify whether it will aim to use constitutional provisions to pay below-market compensation.

The main concern with the Green Paper is that it does not address the key questions and concerns facing the land reform programme. It does not clarify what is the class project of our land reform, how widely resources should be shared, what changes (in terms of land use and farm sizes) should be brought about by land reform in the South African rural landscape, where should land reform happen, and who decides this, how should land be acquired, how can projects be better designed and how can people's rights to what they already have be secured. In addition to its silence on tenure security in communal areas and for farmworkers, it also does not state clearly what the rights are of people who get land through land reform. The state appears to see a larger role for itself, acting more as a custodian or even a landlord for land reform beneficiaries, but it does not clarify what happens if these tenants decide to use the land for something different than what the state (as landlord) had in mind. Most importantly, a view to a bigger picture for land reform that connects clearly with rural development and a vision for inclusive economic growth is missing from the document.

New directions for land reform by Ben Cousins

Ben presented a number of alternative options for land reform and placed these within a broader context of international and South African debates and their ideological underpinnings. Answers to the key questions brought forward by Ruth, such as who should benefit from land reform, will be answered from a particular ideologically-driven perspective, and Ben listed a range of options, each with reference to particular ideological frameworks.

The detailed presentation can be accessed on the [UmhlabaNet page](#).

Some key issues identified by Ben remarked on included:

- a) think very clearly about how to answer the key questions, i.e. saying that 'the rural poor' must benefit from land reform is not so useful
- b) how does a people-driven land reform work – would it be better integrated with LED plans, better use of Area-Based Planning initiatives?
- c) After 14 years of policy reviews, government has refused to learn from its experience – that is the main flaw of the land reform programme

Meanwhile real innovations are taking place on the ground, in absence or despite government – some of these are developing into statutory law.

The politics of land in South Africa has led to what seemed at times an inclusive process of engagement, but it has remained ineffective.

Discussion

After a tea break some questions and comments were raised, including the need to explain what a Green Paper and what a White Paper is, i.e. a (run-up to) a policy framework through which government can be held accountable.

Ruth has argued in a recent [Op Ed in Sunday Times](#) that in absence of clear policy operational policy, determined by local-level implementers, becomes de facto policy. In turn, implementers interpret what they understand to be their political heads' wishes, and do what they can to please – whether this be by pushing up the figures for

hectares transferred, or: PLAS – It is not even clear whether this constitutes abuse. Delivery data (on who got how much land, at what cost to the fiscus) is not available to the public, nor is there any policy directive which either endorses or prohibits such practices.

It is clear that real policy should be grounded in a larger rationale for economic policy, inclusive growth and come about through participatory consultation. The lesson from the past is that even participatory consultations don't guarantee any effect regarding the outcomes of such processes. So how do we achieve change then?

The ensuing part of the workshop was used for small group discussions on topics identified by participants themselves. Below the summaries from the discussions are reflected.

Small group discussion

1. Restitution – session led by Gail Kirchmann (BRC)

This session focused on the question of restitution, and how it should be addressed in the Green Paper on Land Reform. Opinions varied:

1. There should be an open claims process, without a cut-off date
2. Restitution should be extended to betterment cases
3. Put Restitution to bed

Failure of Restitution to date was also discussed, including the unintended consequences of Restitution

2. Farm workers and Agri-villages – session led by Laura Evans and Karin Kleinbooi (PLAAS)

This session asked where we are now with policy with regards to farm workers, and listed some of the current policy developments, including a Land Tenure Security Bill. This was seen as inadequate policy – as it is not sensitive to the nature of extended farm families.

There is a need for policy that regulates sustainable on- and off-farm solutions

1. It was noted that ESTA did provide a range of options, which should be discussed between farm workers, farmers, government, etc
2. Secured tenure delinked from labour
3. Opportunities to create livelihoods
4. Independence

Policy questions are around:

1. Institutional support, implementation of laws and policy in areas of dispersed settlement
2. Will it work to have one national policy, or should we rather look at the reality of uneven geographic and regional circumstances

Urgent tenure issues that must be addressed are:

1. Independent housing for women
2. Moratorium on evictions
3. Independent access to services for on- and off-farm workers (even if those are available only in agri-villages)

This must be done in a way that contributes to challenging paternalism on the farm and making farmers accountable to labour laws, not just socio-economic rights. The farmer's perspective is that he/she can only provide short-term security for its workers.

How do Agri-villages fit in this picture? What should requirements be if this idea is worked out? What are practical concerns? Must this idea be linked to a ceiling on farm size?

1. Rights and freedom of movement
2. Access to land for cultivation
3. Longer term solutions through creating linkages with rural development, and provision of rural infrastructure, service delivery
4. Clarify the role of municipalities in service delivery, on-farm and in rural settlements

What about:

1. Restitution /redistribution for evicted farm workers?
2. Policy that not only protects limited access to land, but allows opportunities to improve access and tenure security?

Whichever direction we go, key are independent M&E of policy implementation and lobby to improve policy on tenure

3. Co-ordinated land reform support and capacity development – session led by Sandra Kruger (Sandra Kruger Associates)

This session discussed suggested outlines of a participatory planning process. Support should be customized on the basis of outcomes from a pre-planning process.

Pre-planning would involve:

1. Identification of an entry point and an exit point
2. And assessment of needs and the value of local knowledge available
3. This would be linked to different options for land use and farming models
4. Beneficiary, or rather stakeholder needs
5. Cost benefit analysis
6. Assessment of Market demand

Identification of who are the relevant departments (Social Development; Economic Development) avoiding top-down approaches

Implementation would involve:

1. Participation with stakeholders
2. Infrastructure
3. Production capital
4. Apprehension about mentors
5. Strategic partners or other internal or external mentor types – need to be screened by stakeholders in attempt to avoid exploitation
6. Assessment throughout to question if this model works?

Post transfer planning would involve:

1. Continued M&E
2. Strategic planning

Key questions:

1. How to identify provincial spatial and racial dislocations
2. Platform for sharing lessons of success
3. How to improve co-ordination and combat institutional failure

Crucial aspects of this participatory approach are the continuity from pre-planning to post planning of support, an assessment of what can realistically be done, and inclusion of extension, NGOs (service providers, unions, farmers associations) and appropriate mentoring in the implementation phase – which would contribute to a comprehensive expertise system, combating institutional failure

4. Land occupations – session led by Ronald Wesso (SPP)

This session took as its vantage point that so far land reform has been a huge disappointment to most people. In this context, land occupation is seen as a source of pressure from below to change the terms of engagement. The question was asked: why should government take us seriously without any sort of pressure from the people?

The demand for land should be driven by a political movement, the parameters for it should be:

1. Mostly occupation of vacant land
2. Mostly government land

Instead of waiting for government to listen and adhere to people's land needs, government will have to come to occupiers and ask them to leave the land, which they will not, unless they are given an alternative by government. The onus will then rest with government

This can be built into a movement through the country, but it happens in pockets. Often people are not occupying land because they have radical agenda's but rather because they seek access to basic resources: land, housing, settlement, water

Flaws are (from a social movement perspective) that currently there is no accompanying theory of change, occupations occur more on an ad hoc basis

If more strategic, land occupations can be used to create different version of use it or lose it, stating that if land is not used it should become accessible to poor. Then it should also be become clearer how people are to make use of vacant lands, which requires a vision of healthy communities

5. Land reform and ecological sustainability issues – session led by Cheryl Walker (Stellenbosch University)

This session focused on an important issue which is often pushed to the margins of land reform debates. However, there is there is general consensus that environmental and ecological sustainability should be part of land reform agenda.

The policy context includes questions around:

1. Climate change
2. Water
3. Biodiversity
4. "conservation"
5. Energy policy

The New Growth Path looks at carbon markets, but does not question the role of large scale agriculture in global warming, or sufficiently appreciate the possible role of small scale farming in approaching the challenge of climate change differently. It aspires the development of a South African Green Economy, but this remains vague.

There is growing awareness that the current capitalist model of commercial, industrialised farming, which is based on the assumption of unlimited growth, is unsustainable. There is a need for a systems change. What would be new models for sustainable agriculture and other land use processes?

A different (area-based) approach would acknowledge regional differences. It would also not ignore the fact that commercial agriculture does respond to economic and environmental concerns. However, propaganda to retain the status quo must be countered in a strategic way. Key issues:

- Food (in)security at household level
- Adaption by commercial agriculture
- Role of fallow land within sustainable systems

There is a need for developing new alliances, new thinking to understand who controls the agro-industry? What is the role of supermarkets? What is meant by 'productive land use'?

Polarization of the debate means that no real engagement is happening, and it is difficult to form alliances. Meanwhile, the Worldbank promotes climate-smart agriculture, mitigation, carbon credits. Agriculture is being moved into the carbon market – and even fallow land has its value here, as credits can be sold – posing a threat to communal land.

Need to look closely at the dynamics between class and ecological perspectives. What are the implications of regulation, and (EU) standards? Can civil society police adherence, in addition to the state?

Lots of historical work in this area which has not been used

- Environmental Guidelines (DLA 2000)
- Environmental Assessment Tools (DANCED programme)

There is an opportunity to think more creatively and destigmatise failure in a new framework for land reform which embraces innovation and experimentation

- Learning lessons from work already done
- Develop an institutional culture of knowledge management
- Include agricultural colleges to become less conservative

6. Women's land rights – session led by Nancy Kachingwe (Rural Women's Movement)

This session asked whether women's land rights are being sacrificed in the run-up to 2014, in an effort to achieve 'successes' in land reform. Why has the land reform Green Paper not dealt with communal land rights, although it forms a massive part of the gender dimension of land reform?

CLRA has been declared unconstitutional; however various Bills such as Traditional Courts Bill are putting in place parallel governance system

So far, the role and place of women remains unchanged within the context of traditional leadership

Even though the Polokwane resolutions announced a change in this, nothing has happened.

There is a need for an audit of legislation regarding women's issues and land rights, possibly driven by the ANC Women's League

7. Land reform and inclusive growth – session led by Andries du Toit (PLAAS)

This session sought to explore possible visions for a South African landscape that supports inclusive growth. It identified different theories of growth, populations/beneficiaries and partners to be targeted by land reform and possible policy instruments.

There is a problem with the current structure of agricultural economy

- Few large farmers
- Many small farmers who are unsupported by proper extension
 - Agricultural extension that is available is dominated by inappropriate economic models, eg. COMBUD

There is a need for:

- Farmer to farmer extension and support models
- Renewed agricultural research for small farmers – disseminate knowledge in a more public fashion will provide impetus for farmer innovation

Key issue is stimulation of non-farm economy and jobs

- Farm dwellers
 - need alternative models of landholding, coupled with sustainable agricultural policies
 - Agri-villages: are they poverty traps?
- Food security – different options, including co-ops
- Disadvantage which small farmers face in engaging with retail markets
 - Curbing market monopolies – restriction on land ownership
 - Opportunities for Regional branding
 - Procurement policy plays a key role
- Shaping consumer preferences
 - requires influence and marketing
 - giving rural dwellers choices (both consumers and producers)
- appropriate technical expertise would include options for
 - organic production methods
 - low input
 - animal [trailing]
 - “train your extension officer” and abandoning COMBUD

Lessons on farming extension can be learnt from Kenya and Brazil

8. The politics of policy making – session led by Ben Cousins (PLAAS)

This session started as a call to the group to invade the meeting being held next door with senior management of the DRDLR, including Director General Mduduzi Shabane. Instead it developed into a discussion around who are the drivers of policy in the area of land reform.

An analysis of political terrain resulted in the conclusion that due to conflict and confusion within government, the state generates incoherent policies; therefore the onus rests with civil society to come up with better alternatives. How do we re-make policy?

There is a need to understand the class forces that are behind political policy processes, within the state, the tri-partite alliance, the ANC, and its connections with the private sector. This will identify big players in retail, agro-processing, input supply, etc.

The ideology behind the policies can be analysed and critiqued, with this knowledge – and clarify the key issues. But then the question emerges: How do we engage with these powerful forces that have vested interests in the policies being put on the table?

The class forces are also at play within civil society, which is fragmented. What is the role of social movements, mobilization and policy engagement within this bigger picture? What is actually happening within civil society?

From the perspective of PLAAS, we direct most of our research to senior technocrats (in the room next door). But we should aim wider, to include field officials, parliament, etc. and re-conceptualise who is the state, or who creates policy? Local government, Chapter 9 institutions..