

The Monster from the Green Lagoon

Assessing the 2011 Green Paper on Land Reform

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Background

- 2005 National Land Summit: agreement that fundamental re-think of policy frameworks is needed, incl. 'willing buyer-willing seller'
- ANC National Congress in Polokwane 2007: resolution of land and agrarian reform and rural development
- Zuma government in 2009: LR and RD one of 5 national priorities

Background

- Consensus across the board that LR is in deep trouble and unlikely to meet targets
- Some argue that food security is of rising concern, given rising food prices (here and globally)
- Minister Nkwinti: “90% of LR projects have failed”; “30% of land reform farms sold by beneficiaries”
- But no clear basis for these claims in available data – and they are damaging to LR as a national project

What does the Green Paper say?

Challenges and Weaknesses

- Land acquisition/WBWS/distorted land market
- Fragmented beneficiary support system
- Beneficiary selection system for redistribution
- Land administration
- Meeting 30% target by 2014
- Declining contribution of agric to GDP
- Increasing rural unemployment
- Problematic restitution model, incl CPIs

What does the Green Paper say?

- **Four-tier system of land tenure**, comprising state land (to be leased out), privately owned freehold (with 'limited extent'), land owned by foreigners (with 'precarious tenure') and communally owned land (under 'communal tenure')
- **Land Tenure Security Bill**
- **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
- **Land Rights Management Committees** in specific areas, composed of reps of farm workers, farmers, municipalities, govt departments

What does the Green Paper say?

- **Land Management Commission** to advise, provide guidelines, coordinate, regulate, audit and act as a reference point for the Ministry
- **Land Valuer-General** to provide fair and consistent land values for rating and tax purposes, and determining compensation where land is expropriated
- **Recapitalisation and Development Programme**, to ensure all land reform farms are 100% productive, via partnerships with commercial farmers

Missing from the 2011 version (in 2010 leaked version)

- A right of first refusal for the state on all land transactions
- Land taxes to incentivise large landowners to dispose of under-utilised land and punish those hoarding land for speculative purposes
- Ceilings on the sizes of landholdings to limit agglomeration of landholdings in few hands.

What key questions does the Green Paper not address?

- 1. Who should benefit from land reform?** Is this a programme for the poor, with the aim of rural poverty alleviation, or is its purpose to attract black investors into agriculture to create a black commercial farming class? What is its class agenda, and how broadly or narrowly should public funds be shared?
- 2. What changes should land reform bring about in land uses and farm sizes?** And what should it leave intact? Is subdivision of farms going to be pursued to promote a smallholder sector, is the expectation that groups of people should own and collectively manage farms, or is this about transferring whole commercial farms from one individual owner to another?

What key questions does the Green Paper not address?

- 3. What land should be prioritised for redistribution, and who should determine this?**
What is the strategic orientation of the programme? How can priorities be set in participatory ways, by the public in tandem with government? What are the spatial considerations and where are the priority zones? Are these the high-rainfall areas close to high population densities? Or areas adjacent to the ex-Bantustans where many small farmers lack adequate land and infrastructure? Where should land reform be targeted?

What key questions does the Green Paper not address?

- 4. How can projects be better designed? What agricultural and other support services can be introduced to ensure that redistributed land is well used and improves livelihoods?**

What key questions does the Green Paper not address?

5. How can tenure rights be secured? What must be done to secure rights of people who live in insecure arrangements, on privately owned farms or in communal areas under customary tenure? What about tenure rights on redistributed land – what rights will beneficiaries have vis-a-vis the state? Will the state become the owner of all redistributed land, so that beneficiaries become tenants of the state (as has been the practice since 2006) or for them to get private title to the land allocated to them (as was originally set out in policy)? Or a mix? Which, and why?

What key questions does the Green Paper not address?

6. How will land be acquired for redistribution? Confiscation is not on the cards, but between confiscation and a 'willing buyer, willing seller' approach lies a broad spectrum of approaches. Will expropriation become a more prominent means of acquiring land for redistribution – or not? Will the state aim to drive down compensation for expropriated properties below market prices, as allowed in the Constitution – or not? Will it aim to normalise expropriation processes and ensure predictability in the process and in the calculation of compensation? Or is 'willing buyer, willing seller' still to be the major way in which land is acquired, even if the 'willing buyer' is now the state?

How should civil society bodies engage with government?

- Ask and (and answer) the questions not addressed in the Green Paper
- In consultative workshops and in written submissions
- Help rural constituencies to articulate their own views – in workshops and written submissions ...
- Present these views to the portfolio committee in parliament
- Describe innovation and success on the ground, in terms of relevant criteria, to help inform policy making
- Facilitate ‘policy making from below’