



UNIVERSITY of the  
WESTERN CAPE



**PLAAS**

Institute for Poverty, Land and Agrarian Studies

# EQUITABLE ACCESS TO LAND REPORT

EQUITABLE ACCESS TO LAND FOR SOCIAL JUSTICE IN SOUTH AFRICA

**PLAAS RESEARCH REPORT No. 56**

**University of the Western Cape**

Farai Mtero, Nkanyiso Gumede and Katlego Ramantisima



# Research Report 56

## EQUITABLE ACCESS TO LAND FOR SOCIAL JUSTICE IN SOUTH AFRICA

*Farai Mtero, Nkanyiso Gumede and Katlego Ramantisima*

Published by the Institute for Poverty, Land and Agrarian Studies, School of Government, Faculty of Economic and Management Sciences, University of the Western Cape, Private Bag X17, Bellville 7535, Cape Town, South Africa.

Tel: +27 21 959 3733  
E-mail: [info@plaas.org.za](mailto:info@plaas.org.za)

Website: [www.plaas.org.za](http://www.plaas.org.za)

Institute for Poverty, Land and Agrarian Studies Research Report no. 56

ISBN: 978-0-620-97380-9

November 2021

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without prior permission from the publisher or the author.

Authors: Farai Mtero, Nkanyiso Gumede and Katlego Ramantisima

Copy editor: Ingrid Jacobson

Series editors: Ruth Hall and Ben Cousins

Printers: Hansa Digital and Litho Printing

Typeset in Aileron

Cover photo: Farai Mtero

Design: Design for development

## ACKNOWLEDGEMENTS

I would like to acknowledge the support and advice of my colleagues at the Institute for Poverty, Land and Agrarian Studies (PLAAS) and our partners in the land sector who collaborated with us on this project.

The core reference group for the 'Equitable access to land' research project played a significant role in discussing what has emerged from the research and dialogue process of the project.

Many organisations contributed immensely to the equitable access to land project. I would specifically like to mention the Association for Rural Advancement (AFRA), the Alliance for Rural Democracy (ARD), the Border Rural Committee (BRC), Ndifuna Ukwazi (NU), Reclaim the City and the Socio-Economic Rights Institute (SERI) for their participation in our main workshop on broadening access to land that PLAAS hosted from the 30th of November to the 2nd of December 2020.

Special thanks to my colleagues Katlego Ramantsima and Nkanyiso Gumede who assisted with the equitable access to land dialogues and interviews with land reform beneficiaries and key informants.

This work would not have been possible without the generous financial support of the Open Society Foundation, South Africa (OSF, SA) and the Claude Leon Foundation (CLF).

## ABBREVIATIONS AND ACRONYMS

ABP	Area-based Planning
ANC	African National Congress
BSLA	Beneficiary Selection and Land Allocation
CED	Centre for Enterprise Development
CPA	Communal Property Association
CSO	Civil Society Organisation
DLA	Department of Land Affairs
DLRC	District Land Reform Committee
DRDLR	Department of Rural Development and Land Reform
EFF	Economic Freedom Fighters
EWC	Expropriation without Compensation
IMC	Inter-Ministerial Committee
IDP	Integrated Development Plans
HLP	High-Level Panel
LMC	Land Management Committees
LRAD	Land Redistribution for Agricultural Development
PAP	Presidential Advisory Panel
PLAS	Proactive Land Acquisition Strategy
PAC	Pan-Africanist Congress
PLAAS	Institute for Poverty, Land and Agrarian Studies
RET	Radical Economic Transformation
SADT	South African Development Trust
SPLUMA	Spatial Planning and Land Use Management Act
SLLDP	State Land Lease and Disposal Policy

## CONTENTS

<b>Abbreviations and acronyms</b>	<b>IV</b>
<b>Executive summary</b>	<b>6</b>
1. Introduction: Broadening access to land	6
2. The contested nature of land reform	8
3. Competing models of agrarian development	9
4. Land redistribution programmes and equitable reform	12
5. New proposals for equitable land reform	14
5.1. Expropriation without compensation	14
5.2. Expropriation Bill	15
5.3. Draft National Land Allocation and Beneficiary Selection Policy	16
5.4. The release of state land	17
6. A changing agrarian landscape	18
7. Significance of the urban land question	20
8. Research methodology and design	21
9. The predominance of ‘productionist’ notions of success in land redistribution	22
9.1. Beyond productionism: A pro-poor land reform	23
9.2. Access to land by small-scale farmers	24
9.3. Gender equity and women’s underrepresentation	24
9.4. Legally secure tenure and recognition of informal land rights	25
9.5. Diverse land needs	25
9.6. Decentralised and participatory land reform	26
9.7. Access to land and other natural resources	27
9.8. Agrarian reform	29
9.9. Reversing spatial inequalities	29
9.10. Redistributive policies and broadening state welfare transfers	29
10. Conclusion	30
11. References	31
<b>List of tables</b>	
Table 1: Contested visions of agrarian reform	11
Table 2: Proposals for equitable distribution of resources across different priority groups	17
Table 3: State land earmarked for release	18
Table 4: Research participants	21
Table 5: Key considerations for equitable access to land	28

## EXECUTIVE SUMMARY

This report analyses the trajectory of land reform in South Africa and its implications for equitable access to land. The report combines insights from empirical research and inclusive dialogues to analyse the extent to which land reform laws and policies adequately promote equitable access to land as provided for in Section 25 of the Constitution. These insights are based on in-depth interviews with land reform beneficiaries and different key informants in the land sector. A series of workshops conducted during the course of the research allowed different societal groups to articulate diverse and often contested ideas of what constitutes a successful and equitable land reform in South Africa. The dialogues were important in interrogating deeply entrenched and enduring assumptions about land reform, development and the overall trajectory of transformation in South Africa. Some of the enduring assumptions include the narrow focus on replicating the large-scale commercial farming model in land redistribution while neglecting the role of land

in sustaining multiple and diverse livelihoods for the landless poor. 'Productionism' is also evident in the narrow focus on agriculture and neglect of the complex and differentiated land needs associated with the incessant process of urbanisation. Both the tendency to replicate the large-scale commercial farming model in land redistribution and the narrow focus on farming while neglecting multiple and diverse land needs of the landless poor undermine equitable access to land. The report argues that equitable land reform should account for the diverse land needs associated with a rapidly changing agrarian landscape where rapid urbanisation occurs amidst the decline of farming livelihoods, widespread unemployment, and complex urban-rural migration patterns. Accordingly, a broad framing of success is imperative, beyond the productionism that seeks to replicate the large-scale commercial farming model while neglecting the complex realities of a changing agrarian landscape.

## 1. INTRODUCTION: BROADENING ACCESS TO LAND

In spite of the policy rhetoric on pro-poor land reform in South Africa, equitable access to land remains elusive for the poor majority, in both urban and rural areas. The progressive constitutional provisions and policy pronouncements do not match the realities on the ground where lack of access to land remains prevalent. In agriculture, a few large-scale, white-owned commercial farms dominate the sector and produce the bulk of agricultural output. In contrast, large numbers of black, smallholder farmers are confined to the former homelands with limited access to land (Aliber and Cousins, 2013). There is a lack of appropriate legislation to give effect to Section 25(5) of the Constitution on broadening access to land on an equitable basis. The High-Level Panel (HLP) Report (2017) recommended the enactment of a law "to give meaning

to or set standards for measuring whether land reform enables citizens to gain access to land on an equitable basis" (HLP, 2017:37). According to the HLP (2017) this law will essentially provide guiding principles and definitions for such terms as 'equitable access in land reform delivery'. The law will also provide for "institutional arrangements, requirements for transparency, reporting and accountability and other measures to ensure good governance of the land reform process" (HLP, 2017:38).

In land redistribution, the inadequacies of the Provision of Land and Assistance Act, 126 of 1993 (Act 126) are widely cited as constituting a major legislative constraint to the broadening of access to land (Kepe and Hall, 2016). Originally enacted by the apartheid government in its pre-emptive land reform in the



early 1990s, Act 126 remains the primary law governing land reform in South Africa. In spite of it having been amended twice, this law is still inadequate as a vehicle to implement equitable land reform in South Africa (Kepe and Hall, 2016). According to Kepe and Hall (2016:10), “the widely permissive provisions of Act 126 create a substantial scope for the Minister to determine the direction and content of the land redistribution programme”. In spite of the amendments, Act 126 does not provide sufficient guidance on fundamental questions concerning the realisation of equitable land reform. Questions as to who land reform is for and who should be the primary beneficiaries are not foregrounded in this legislation and related policies. According to the HLP report:

*Act 126 is inadequate as a vehicle to guide the implementation of land redistribution. It does not define ‘equitable access’ in a meaningful manner, and provides no guidance as to how beneficiaries are to be selected, how land suitable for redistribution is to be acquired, how post-settlement support is to be provided, how land tenure security of beneficiaries is to be secured, and says nothing about the role of local authorities in land planning and implementation (HLP, 2017:219-220).*

The Presidential Advisory Panel (PAP) Report (2019) also draws attention to the legislative and policy gaps that impede equitable access to land. The PAP (2019) supports the proposal to enact a Land Redistribution Bill that would replace Act 126. The envisaged Bill would operationalise equitable access to land and form the basis for beneficiary selection guidelines that are consistent with international standards on transparency and openness (PAP, 2019).

Some legal scholars have problematised what the constitutionalised right to equitable access to land actually means in practice and its implications for equitable land reform (Budlender, 1992; Pienaar, 2014). According to Pienaar (2014:283), Section 25 (5) “does not constitute a right to land as such, nor does it guarantee that everyone will in fact receive land” (Ibid.).

Pienaar (Ibid.) further argues that “while access to land is presently not a basic human right, it still embodies certain state responsibilities and duties dependent on available resources”. In this sense, access essentially refers to “the opening up of the land base in order to derive some benefit from it, thereby incorporating the ability to derive or the possibility of deriving a benefit and not a right to derive a benefit” (Ibid.). However, “having the ability to benefit does not mean, per se, that benefits would indeed accrue” (Ibid.). Some key considerations come to the fore and these include questions on “who would be able to benefit, how that person, community or institution enters the arena to stand a chance of qualifying, what the benefits would be, when and or in which circumstances the benefits would accrue” (Ibid.).

This report argues that equitable land redistribution is a process that should distinctly prioritise the differentiated and multiple livelihoods of poor social classes and enable them to construct viable livelihoods (White et al., 2014). This definition resonates with arguments for accumulation from below (Cousins, 2007) as a key outcome of land reform. Given the wider changes in the agrarian landscape and the realities of urbanisation, accumulation from below cannot be achieved through agriculture alone (Cousins, 2007) but should include the support of livelihoods of many who are unemployed and underemployed. In addition to the prioritisation of poor social classes, decentralised, democratic and participatory processes are key to the realisation of equitable land redistribution.

According to Borrás and Franco (2010:9) “when carried out in the real world, a land policy causes a change in the actual existing land-based social relations” and “some changes favour the landed classes, other elites, or the state, while others may favour the poor”. Borrás (2007), argues that the transfer of control over landed resources not only needs to traverse social classes but must fundamentally favour the landless and near-landless poor. However, “land laws and policies are not self-interpreting or self-implementing” (Borrás and Franco, 2010:9). According to Borrás and

Franco (2010:9), “it is during the interaction between various, often conflicting, actors within the state and society that land policies are actually interpreted, activated and implemented (or not) ...” (Borras and Franco, 2010:9). Despite progressive constitutional provi-

sions on broadening access to land, land policies are contested and implicated in unequal power relations within society. It is therefore important to understand the wider political economy issues that influence land reform outcomes.

## 2. THE CONTESTED NATURE OF LAND REFORM

South Africa’s post-apartheid land reform is a product of a negotiated transition where various competing interests sought to influence the land reform process in their favour (Hall, 2004). The ‘elite pacting’ (Hall, 2004) during transition negotiations produced a fragile consensus on land reform whose acceptance across a wide spectrum of political positions subsumes mutually contradictory socio-economic objectives that, as du Toit (2013) argues, draw support from different legitimising frameworks. The contentious politics of land reform partly reflect the unravelling of what was, from the beginning, a fragile consensus.

Powerful interests have coalesced around a conservative and reformist post-apartheid land reform agenda that broadly emphasises “market efficiency and deracialisation” (Cousins, 2016:3). According to Hall (2004), the government has been primarily focused on market efficiency and “growth of the commercial farming sector, alongside its commercialisation, and the growth of a black middle class”. Hall (2004) further notes that white commercial agriculture and agricultural capital prioritise, among other things, maintaining property prices, price stability and confidence in the markets. Emerging black commercial farmers have been able to access state resources as beneficiaries of deracialisation of the commercial farming sector (Hall, 2004).

Some within the pro-market approach have argued that social justice is merely symbolic and that radical approaches to land reform are essentially anti-market and populist (Centre for Development and Enterprise). In this strand of argument, it is argued that large-scale land redistribution will adversely affect commercial agriculture and agribusinesses in

the wider value chains and translate into a decline in consumer and investor confidence (Ibid.). In contrast, those who argue for radical land reform maintain that the property clause in the Constitution protects private property rights and constitutes an obstacle to land reform (Ntsebeza, 2007). The ‘willing seller, willing buyer’ approach is often cited as the reason behind the slow pace of land reform (Lahiff, 2007). Arguments for a state-driven and radical approach to land reform resonate with the position of different political formations calling for expropriation without compensation (EWC) to accelerate land reform (EFF, 2021).

However, political elites have tended to use radical economic transformation to disguise narrow elite interests, especially the elite accumulation of wealth through the capture of state resources. Thus, populist rhetoric on radical economic transformation has been deployed to provide popular legitimacy to elite accumulation (Desai, 2018).

Contentious politics around land reform reflect how the land question can be ‘annexed and appropriated’ by different political interests, often in pursuit of party political interests (du Toit, 2019). The presence of the Economic Freedom Fighters (EFF) on the South African political scene represents a key moment in South Africa’s land reform discourse. Since its formation, the EFF has become a prominent voice for the black left, occupying the political vacuum created by the virtual disintegration of the Pan-Africanist Congress (PAC) (Tleane, 2018), and its land policies comprise calls to jettison the market-led approach to land reform in favour of expropriation and nationalisation of land (EFF, 2021).

Previous calls for the abandonment of the ‘willing seller, willing buyer’ approach to land reform have floundered largely due to a lack of political will within the governing ANC and the pursuit of market-friendly macro-economic policies (Lahiff, 2007; Cousins, 2013). This is also attributable to a fragmented civil society that has not been successful in halting the rise of pro-elite land reform through, inter alia, policy biases and corruption (Jara and Hall, 2009; Mtero et al., 2019).

In 2019, President Ramaphosa appointed the Presidential Advisory Panel to address the potentially explosive land issue and identify possible solutions. The Presidential Advisory Panel (2019) made far-reaching recommendations on how South Africa can achieve equitable land reform. Most of the recommendations were adopted and their implementation is being managed by the Inter-Ministerial Committee (IMC) on land reform (African News Agency, 2018). The far-reaching recommendations of the Panel notwithstanding, its establishment needs to be located in the broader context of the contested politics of land reform. It could be said that the establishment of the Panel represents efforts to ‘remove the land question from the arena of political party contention’. It is not unusual for states to use such initiatives to “produce a rational and scientific administrative discourse out of the raw materials of political struggle and debate” (Ashforth, 1990:3).

Alternatives need to go beyond the conservative, pro-market approaches that tend to narrowly focus on market efficiency and do not pay sufficient attention to the role of politics and unequal power relations in shaping policy outcomes. Conservative, neo-liberal policies are often legitimised on the basis that there are no credible alternatives to market-centred ap-

proaches to development (Narsiah, 2007). Populist politics may also foreclose the possible development of pro-poor alternatives, and, in most instances, they are used by political elites to legitimise and advance policies that are inimical to the interests of the poor (Desai, 2018). Radical economic transformation has been used to obscure some anti-poor practices – the entrenchment of state capture in different key sectors of the economy, including elite capture of land reform (Mtero, et al, 2019).

Successfully implementing a pro-poor land reform requires policies that confront the prevailing realities of structural poverty and inequality. Land redistribution should prioritise the issue of how to provide for people instead of exclusively focusing on how to use land. In this respect, land redistribution should be about “solving the more basic issue of how to secure a livelihood for people denied one; how to change the nature of society...” (Bush and Cliffe, 1984:87). Yet, most models of agrarian development in Southern Africa tend to fetishise land as a thing and neglect social relationships and the class implications of land redistribution (Bush and Cliffe, 1984).

In the post-apartheid context, it is not feasible for land reform to narrowly focus on agricultural production alone given the challenges experienced in agriculture as a whole and the realities of precarious urbanisation (Cousins, 2007). The present context is one in which there is the unravelling of the classical model of societal transformation since agricultural decline has not been accompanied by the absorption of the labour of those exiting farming in other sectors of the economy. The prevalence of large numbers of people who cannot earn a living wage has become a defining feature of contemporary capitalist economies.

### 3. COMPETING MODELS OF AGRARIAN DEVELOPMENT

Various scholars acknowledge the contested nature of land reform policy and cite transitional politics as having played a fundamental role in shaping the nature and trajectory of land reform in post-apartheid

South Africa (Bernstein, 2003; Hall, 2004; Lahiff, 2007). Bernstein (1998:25) argues that land reform outcomes are predicated on “political processes over land, involving various social forces, with differential power,

straddling different terrains on which they pursue their objectives". There is a constellation of powerful social forces around a pro-market land reform that favours the 'large-farm path' (Bernstein, 1998). This is in contrast to a pro-poor land reform that seeks to broaden the agrarian structure to make it more inclusive.

Hall (2004) asserts that the coalition of black and white commercial farmers, including agribusiness, has successfully lobbied the post-apartheid state to pursue a conservative and reformist approach to land reform. Post-apartheid land reform has largely sought to deracialise the large-scale commercial farming sector through the inclusion of a select group of competent black commercial farmers as opposed to broadening the agrarian structure by redistributing land to smallholder farmers (Aliber and Cousins, 2013).

Cousins and Scoones (2010) argue that the predominance of the large-scale commercial farmers and exclusion of smallholder farmers is often rationalised through modernisation narratives that consider the large-scale commercial farming model as the only 'economically viable' form of agriculture. Conceptions of viability favouring the large-scale commercial farming model have their provenance in colonial settler agriculture which saw the establishment of large-scale, white-owned farms through land dispossessions and the channelling of state support to sustain these forms of production on the basis that they represented commercially viable farming compared to smallholder African producers.

These notions of viability have persisted and are often reproduced in policy discourse and practices. According to Cousins and Scoones (2010:51), "the language of viability dominates the discourse of a conservative alliance of land owners, agricultural economists, and officials, which is opposed to changes in agrarian structure and argues instead for deracialisation of ownership and the establishment of viable and sustainable upcoming commercial farmers".

Cousins and Scoones further argue that this has "stifled the emergence of a land redistribution embedded within a wider agrarian reform focused on poverty reduction that creates opportunities for smallholder farmers" (Ibid.). Accordingly, "viability in land reform needs to be assessed in terms of a wider set of criteria than those derived from large-scale commercial farming" and these criteria may prioritise "agrarian restructuring, livelihoods and welfare issues" (Ibid.:51).

Post-apartheid land reform has been characterised by contested visions concerning what constitutes viability or success in land reform. Conceptions of what constitutes viability and success have implications for resource allocation and which models of farming are worth supporting and, by implication, which social classes stand to benefit from land reform. These contestations are often manifest in contemporary debates on the role of land reform in South Africa, specifically, its target beneficiaries, selection criteria, and the supposed contribution to the broader transformation of society.

A land conference hosted by PLAAS in 2019 brought to the fore the contestations on the nature and trajectory of land reform in South Africa. In a critique of the conference, du Toit (2019:9) argues that its design and nature of deliberations are illustrative of attempts to "turn politics into policy" by fostering a "rational and reflective discussion" on what is an inherently emotive and politically charged topic (du Toit, 2019:9). Nevertheless, the three keynote papers were strategically selected to "represent the most important of the stylised policy stances and ideological projects that have characterised the land reform debate as it unfolded in professional and institutional circles since the 1990s" (du Toit, 2019:9). While the contestations on South Africa's land reform are far more complex, a review of these broader policy visions may afford us a glimpse into the different land reform futures envisaged in different sectors of society.

**Table 1: Contested visions of agrarian reform**

Key considerations (PLAAS Land conference, 2019)	Vink & Kirsten (2019)	Aliber (2019)	Mazibuko (2019)
Who should benefit from land redistribution in rural SA?	Entrepreneurial farmers	Smallholder farmers and settlement-oriented land needs	The landless and land poor in rural and urban areas
How should land for redistribution be identified, acquired and transferred?	Expropriation, land donations, Land Management Committees (LMCs) with a prominent role for agribusiness and commercial farmers	Lead role for localised land identification processes. Demand-driven land identification. Supply-driven land identification where ordinary people may be excluded by local elites.	Area-based planning and municipal IDPs are key instruments in land identification.
What kinds of rights should beneficiaries hold on redistributed land?	Long-term leases or full freehold tenure in commercial farming areas, secure contracts and long-term leases in communal areas	Recognise diverse forms of tenure, legal protection of vulnerable groups. Legal recognition of values, practices and institutions in line with the Constitution.	Differentiated approach dependent on beneficiary type. CPAs for settlement-oriented projects and small-scale farmer projects. Commonage land integrated into adjacent communal areas, freehold title for large-scale farmer beneficiaries.
What are the desired outcomes of such redistribution?	Promote productive large-scale commercial farming, export-oriented agriculture, food security	Reconfigure the dualistic agrarian structure and create a broad and inclusive agrarian structure	Control of production, marketing and food distribution by cooperatives that operate on the principles of solidarity.

Vink and Kirsten (2019) argue for a prominent role by commercial farmers and agribusiness in land reform mainly through strategic partnerships and mentorship arrangements. According to these scholars, agrarian development should ensure the productive use of land to promote agricultural growth, food security and exports. In spite of the imperative to address past dispossession, land redistribution should ultimately aim to support aspirant black entrepreneurs. Unlike the poor smallholder producers, these are better able to compete in a largely precarious world of globalised and deregulated agriculture also characterised by climate and environmental challenges. Vink and Kirsten (2019) argue against misconceptions about market-based land reform, noting that it remains the best mechanism to implement land reform in spite of previous failures. In fact, land reform failures are attributable to poor implementation, bureaucratic inefficiencies, elite capture and corruption (Ibid.). Given the reality of state inefficiencies, elite capture and corruption, the market, through an increased role for agribusiness and commercial farmers, should be the primary mechanism for land redistribution. Vink and Kirsten (2019) envisage a decentralised and demo-

cratic land reform with district or local Land Management Committees (LMCs) playing a role in beneficiary selection. In this model, existing commercial farmers and agribusiness are expected to play a lead role in beneficiary selection considering their understanding of the realities of the specific agricultural industry and the entrepreneurial needs (Ibid.).

Vink and Kirsten (2019) refer to the need for beneficiaries to be socially productive and that land needs are multiple and not confined to agriculture and may include demand for residential land, yet economic imperatives and national food security need to take precedence. These realities dictate that large-scale or entrepreneurial farmers be promoted. Vink and Kirsten (2019) argue that a key criterion is that land reform beneficiaries should be socially productive but this need not translate to an exclusive promotion of large-scale commercial farming. Yet economic imperatives suggest that large-scale farming requires a farming sector that contributes to the wider economy through export earnings and sustaining national food security. Thus, the important caveat in this position is that economic imperatives take precedence (Ibid.).

Aliber (2019) explicitly argues for a redistribution programme that creates a range of livelihood opportunities in meaningful numbers and prioritises the racial transformation of the commercial agricultural sector. Aliber (2019) identifies key shortcomings in existing land reform policies. Large-scale projects wherein large amounts of land are allocated to a few beneficiaries have meant that few people benefit from land redistribution. Annual budgetary allocations are channelled towards a few elite farmers.

Yet the supposed superiority of the large-scale farming model and its replication in land reform are based on the mistaken assumption that only large-scale commercial agriculture is real agriculture. The policy bias in favour of large-scale commercial farmers is resonant with the aspirations of well-off elites who aspire to be large-scale commercial farmers and often diversify into agriculture to augment their business activities (Mtero et al., 2019). Aliber (2019) argues that large-scale farming is attractive to elites whose main aspiration is to invest in farming in order to accumulate and who often seek entire farms as opposed to smallholdings. Aliber (2019) also acknowledges the complexity of land needs that incorporate non-agrarian land use activities. Thus, the growing demand for land does not only emanate from the desire to farm, but there is also increased demand for “well-located homes from which to pursue livelihood strategies” alongside the growing ‘preference for peri-urban and

semi-rural sites for those who have an affinity for a rural lifestyle or those who need alternatives to the high costs of urban living’ (Aliber, 2019:5).

Land reform should target the subaltern classes that have been peripheralised in post-apartheid development and these are located in the former homelands, white commercial farming heartlands, informal settlements and urban areas (Jara, 2019). These groups can be variously identified as the unemployed, farm workers, smallholder farmers, informal settlement dwellers in townships and urban centres. Jara (2019:2) contrasts this broader transformation agenda with reformist land reform measures that merely seek to “de-racialise land ownership and commercial agriculture in favour of elite class formation by aspirant black capitalists”. Implicit in this radical paradigm, is the wider transformation of society through a set of broader socio-economic goals that include decongestion of the former homelands and rural slums, reversing agrarian dualism and creating a class of smallholder farmers, supporting land access for settlement and production, and ensuring agro-ecologically sustainable resource utilisation (Ibid.). This requires a decentralised and demand-driven land reform process with democratic land reform delivery institutions. Land reform can only succeed and bring about the desired transformation of society if implemented purposefully, and if it creates an alternative, solidarity-based economy, as opposed to the existing exploitative capitalist structures (Ibid.).

#### 4. LAND REDISTRIBUTION PROGRAMMES AND EQUITABLE REFORM

South Africa’s land redistribution has metamorphosed into a pro-elite programme, reflecting the predominant class interests, especially the convergence of landowners, agribusiness, the nascent class of black commercial farmers, and state bureaucrats interested in stability of the sector around the agenda to deracialise commercial farming, in lieu of far-reaching, comprehensive transformation (Hall, 2004). In the absence of an appropriate law governing land reform and clear-

ly outlining the principle of equity, land redistribution has abandoned the pro-poor principles, amidst a rise in elite capture.

The White Paper on South African Land Reform espouses the principles of a pro-poor land redistribution. Land redistribution should respond to “the widely differing needs and aspirations of people for land, in both urban and rural areas, in a manner that is both equitable and affordable, and at the same time con-

tribute to poverty alleviation and to national economic growth" (DLA, 1997:10). The pro-poor land reform principles were reflected in the first land redistribution programme, the Settlement and Land Acquisition Grant (SLAG), adopted from 1996 to 2000, which provided R16, 000 grants to households requiring land (Hall and Cliffe, 2009). The means test ensured that the poor with a monthly income of at least R1500 per month qualified as SLAG beneficiaries (Aliber et al., 2013). In spite of the widespread criticism of the minuscule amount of the grant, SLAG supported agricultural production, settlement and the beneficiaries' multiple livelihoods (Aliber et al., 2013).

However, given the small amount of SLAG, beneficiaries were compelled to form large groups in order to acquire land. These groups, often in the form of Communal Property Associations (CPAs), comprised people from different social backgrounds and this provided a fertile ground for conflicts within the land reform projects (Aliber et al., 2013). Besides the prevalence of conflicts in SLAG projects, the lack of production support from the state adversely affected the sustainability of these projects. The SLAG projects were widely perceived as welfarist in orientation and economically unviable (Aliber et al., 2013). Whatever the criticism levelled against SLAG projects, this grant remains the most pro-poor flagship programme ever adopted in land redistribution to date.

A marked shift occurred in 1999 when the Mbeki administration replaced the SLAG grant with a new flagship programme in land redistribution, the Land Redistribution for Agricultural Development (LRAD). The government sought to abandon the welfarist SLAG approach and introduced what was perceived to be a more economically viable land reform model. The means test was removed as the qualifying criterion for land grant recipients and land reform beneficiaries received grants based on a sliding scale, with the amount of the grant dependent on own-contribution (Hall, 2009; Aliber et al., 2013). Those who could not mobilise the requisite financial resources could contribute through sweat equity by providing their labour. In spite of the policy rhetoric on the inclusion

of the poor, the LRAD programme prioritised those with sufficient resources (read comparative advantage) to engage in commercially viable farming, in line with market-based land reform principles. Notions of commercial viability determine which programmes are feasible and therefore worth supporting and this has implications for distribution of public expenditure (Cousins and Scoones, 2010). Given the exclusive focus on commercial success resource expenditure in South Africa's land redistribution has been concentrated on 'commercially viable' projects (Kepe and Hall, 2016). This has been possible since Act 126 affords the administrative authorities (the Minister) wide discretionary powers and does not provide a formula on how resources can be rationed across different priority groups (Kepe and Hall, 2016).

In 2006, the government introduced the Proactive Land Acquisition Strategy (PLAS), with the aim of accelerating the pace of land redistribution given the slow land transfers associated with the 'willing buyer, willing seller' approach. The new programme would see the state pro-actively identifying land for acquisition and directly purchasing land from landowners. In essence, PLAS represents a supply-driven land reform programme where the state actively intervenes to identify and acquire land, in contrast to a demand-driven process. However, in practice, research reveals that in some instances, land reform beneficiaries have taken the lead in identifying land. In most instances, these are well-off elites who often look for large landholdings that will enable them to farm on a large-scale for accumulation purposes (Aliber, 2019). However, there are instances where ordinary beneficiaries have identified land that suits their needs, only for that land to be allocated to elites instead (Mtero et al., 2019).

Another key shift associated with the PLAS programme is the leasehold system which allows beneficiaries to lease state land as opposed to the transfer of ownership which was the hallmark of previous land reform programmes. The assumption is that broadening access to land can be achieved through long-term leases since the idea is to expand opportunities for people to derive benefits from land. However, consid-

ering the historical dispossessions, and that many prospective beneficiaries lack access to land and resources, others have argued that full ownership rights are integral to equitable land reform (Mtero et al., 2019). At the centre of the PLAS programme is the idea of 'commercial viability and just like LRAD, only competent beneficiaries, with potential to become successful commercial farmers are prioritised. While the State Land Lease and Disposal Policy (SLLDP), a framework governing the lease of state land, identifies different

categories of farmers, only medium and large-scale farmers tend to benefit from the programme. The landless and land-poor households, including smallholder farmers, are underrepresented. Policy biases that privilege 'commercial viability' (Cousins and Scoones, 2010) as a measure of 'success' and the prevalence of elite capture have inhibited the contribution of PLAS towards broadening access to land in favour of the most needful social groups (Mtero et al., 2019).

## 5. NEW PROPOSALS FOR EQUITABLE LAND REFORM

Some policy measures on equitable land reform have been introduced. Some key factors in the wider political context explain the impetus behind these new proposals. Apart from the need to return land reform to its pro-poor moorings, these policy proposals happen amidst widespread public discontent with the slow pace of land reform and the appropriation of the land reform agenda by radical political elements that have successfully positioned themselves as authentic voices for the Black left, often using land as a political prop to pursue narrow political agendas. The extent to which the new proposals can contribute to equitable land reform is debatable but what is clear is that there is significant political pressure on the government to speedily resolve the land question.

A number of land reform policy proposals have been introduced in South Africa, reflecting attempts on the part of the state to implement equitable and pro-poor land reform. These include the 18th Constitutional Amendment, the Draft Expropriation Bill, the National Land Allocation and Beneficiary Selection Policy, and the Release of State Land. However, many experts have raised questions regarding the efficacy of these proposals and the extent to which they enable equitable land reform.

Entrenched policy biases continue to prevent the subdivision of land for land redistribution purposes. Although the Subdivision of Agricultural Land Act 70 of 1970 was repealed, the Repeal Act is yet to be signed

into law by the president (Hall, 2009). In practice, this does not prevent the subdivision of land given that Act 126 exempts land acquired for land reform purposes from the restrictions on subdivision (Hall, 2009). A key impediment is that policy makers see subdivision of land as presenting the risk of creating 'unviable' and 'uneconomic' farming units (Cousins and Scoones, 2010). Policy failures on subdivision happen amidst the rising consolidation of landholdings in the large-scale commercial farming sector which contributes to the marginalisation of smallholder producers (Greenberg, 2015).

The following section will briefly review some of the policy pronouncements often seen as key solutions that will unlock longstanding impediments in land redistribution.

### 5.1. Expropriation without compensation

It is important to situate the heightened interest in expropriation in the wider national political developments. The EFF's calls for radical land reform, specifically the compulsory acquisition of land, converged with the radical economic transformation (RET) faction's politics in favour of expropriation as a key component of any meaningful redistributive measures, culminating in the ANC supporting the EFF's motion to amend 25 of the Constitution. The politics around the legislative amendments remains contentious and its outcomes unclear, especially



after the EFF pushed for state custodianship while the ANC appears to be wary of any radical position that has a semblance of nationalisation of land. However, for the purposes of this report, it will suffice to examine the extent to which expropriation of land can contribute to equitable land reform.

Public discourse on expropriation without compensation (EWC) neglects questions concerning the rationale for land reform and contested views about the role of land reform in the development and transformation of society. A key consideration is the extent to which expropriation facilitates equitable land reform in South Africa. Expropriation of land needs to contribute towards equitable land reform and the broader transformation of society. Some key proposals have been made in relation to expropriation of land without compensation and these are the 18th Constitutional Amendment and the Draft Expropriation Bill. The wider political context has been characterised by intense contestation concerning the role of expropriation in land reform. The 18th Constitutional Amendment originated from the EFF-initiated Parliamentary motion to amend the Constitution and explicitly allow for land expropriation. After the passing of the motion to consider the constitutional amendment on expropriation, with support from both the ANC and the EFF, public hearings followed and these overwhelmingly supported the constitutional amendment.

However, the Constitution already allows for expropriation in pursuit of land reform. Arguments about the market-based approach, specifically, the willing buyer, willing seller approach hindering expropriation, overlook the fact that the willing buyer, willing seller approach to land reform is a policy choice and not part of the constitutional provisions. Actually, the property clause allows for expropriation subject to just and equitable compensation and explicitly outlines the set of considerations that are key in defining 'just and equitable' compensation. Clearly, the market value of the

property is just one of those considerations. The set of circumstances that warrant nil compensation have also been outlined by the PAP<sup>1</sup> (PAP, 2019). The lack of political will, coupled with policy choices aligned with the neoliberal macro-economic policies and the associated privileging of growth as opposed to redistribution, partly explains the failure to utilise already existing constitutional provisions on expropriation. The reliance on the outdated Expropriation Act 63 of 1975 has only added to the uncertainty and lack of decisiveness on expropriation.

## 5.2. Expropriation Bill

South Africa has relied on the apartheid-era legislation, the Expropriation Act 63 of 1975, and it is widely acknowledged that this piece of legislation is not adequate to govern expropriation in a constitutional dispensation. First, the 1975 Expropriation Act primarily focuses on 'expropriation' for public purposes or government purposes and does not pay particular attention to expropriation for public interest. In terms of the current Constitution, public interest includes 'land and related reforms'. Second, the 1975 Expropriation Act only provides for compensation at market value in spite of the fact that the current Constitution has different circumstances that should be considered when determining the level of compensation, alongside market value. In some instances, nil compensation constitutes just and equitable compensation. The Land Reform Inter-Ministerial Committee (IMC) announced the submission of the Expropriation Bill to parliament. This sets in motion the process of enacting a constitutionally aligned expropriation law that would replace the archaic 1975 Expropriation Act.

However, the IMC echoed observations by many analysts that 'expropriation' should not be seen as a silver bullet but as part of a 'comprehensive approach to land reforms (PAP, 2019). First, the Bill factors in the constitutional provisions on just and equitable com-

1. The PAP (2019) also identified instances where land can be expropriated for nil compensation. These include: hopelessly abandoned land, land purely intended for speculative purposes and a clear clarification of what constitutes speculative purposes, unutilised land owned by state entities, land obtained through criminal activities, land already occupied and used by tenants and former labour tenants, informal settlement areas, inner city buildings with absentee landlords, land donations and farm equity schemes where the state has purchased equity and no or limited benefits have been derived by worker shareholders.

pensation which may include zero compensation<sup>2</sup>. However, this alone does not translate into a fully-fledged compensation that can be used to guide expropriation. Some experts have recommended a formula that accounts for a spectrum of circumstances, for instance, from zero compensation, below-market compensation, market-related compensation, and even above-market compensation (PAP, 2019).

Second, in the absence of an overhaul of related land reform policies, for instance, Act 126, alongside the adoption of the proposed Beneficiary Selection and Land Allocation Policy, there is a huge possibility that the poor may not benefit from expropriation.

Third, the vulnerable, those with unregistered, off-register land rights, for instance, informal sector dwellers and rural households with secondary rights in customary tenure systems, need to be protected from arbitrary expropriation. In sum, without these pre-requisite conditions, expropriation may potentially entrench forms of exclusion that have characterised post-apartheid land reform.

### 5.3. Draft National Land Allocation and Beneficiary Selection Policy

The government proposed a National Beneficiary Selection and Land Allocation (BSLA) policy against the background of significant impediments to equitable land reform. The 'class agenda' of land reform has shifted since the abandonment of the means test as the key requirement for beneficiary selection (Hall, 2012). Commercial success has become the primary consideration in the selection of beneficiaries and these

policy biases have, alongside corruption, facilitated elite capture of land reform.

Yet public and policy discourse has centred on expropriation as a means to accelerate land reform and neglected key issues on beneficiary selection, equity and social justice in land reform.

The BSLA policy includes a differentiated selection criterion with requirements specific to each identified target group, namely mega and large black commercial farmers, medium-scale farmers, smallholder farmers, and vulnerable households farming for subsistence. However, identification of different target groups and related selection criteria is not a sufficient mechanism for ensuring greater inclusion of smallholders, landless and land-poor households (PLAAS, 2020a). There is no specification of the proportion of beneficiaries that should be targeted from each category. This is in spite of the PAP's (2019) proposed formula on the proportion of beneficiaries to be targeted in each category – households (30 percent), market-oriented smallholders (30%), medium-scale farmers (30%) and large-scale commercial farmers (10%). In addition, there is no specification on resource distribution across these different categories.

Thus, there is absence of clear guidelines on the proportion of beneficiaries targeted in each category and resource allocation across these different categories. This leaves administrative authorities with wide discretion on beneficiary selection and resource allocation. Similar challenges are evident in relation to gender equity in land reform.

2. Sections 12(3) a to e and Section 12 (4) (4) of the Draft Expropriation Bill make provision for nil compensation in land reform and these instances highlighted here: a) where the land is not being used and the owner's main purpose is not to develop the land or use it to generate income, but to benefit from appreciation of its market value; (b) where an organ of state holds land that it is not using for its core functions and is not reasonably likely to require the land for its future activities in that regard, and the organ of state acquired the land for no consideration; (c) notwithstanding registration of ownership in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), where an owner has abandoned the land by failing to exercise control over it; (d) where the market value of the land is equivalent to, or less than, the present value of direct state investment or subsidy in the acquisition and beneficial capital improvement of the land; and (e) when the nature or condition of the property poses a health, safety or physical risk to persons or other property. (4) (4) When a court or arbitrator determines the amount of compensation in terms of section 23 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), it may be just and equitable for nil compensation to be paid, taking into regard to all relevant circumstances.

**Table 2: Proposals for equitable distribution of resources across different priority groups**

Categories	Features of target beneficiaries	Policy emphasis	% of budget allocation (PAP, 2019)	Gender equity (proportion of women & % of budget <sup>3</sup> )
1	Households with limited or no access to land	Support multiple livelihoods, enhance food security and household welfare.	30%	50%
2	Small-scale or subsistence farmers	Support market-oriented production by dynamic smallholders alongside multiple livelihoods and subsistence.	30%	50%
3	Medium-scale commercial farmers who have been farming commercially for some time.	'Viable' business plans, maximise economic returns, profitability and job creation.	30%	50%
4	Large-scale, well-established commercial farmers who have been farming on a reasonable commercial scale.	'Viable' business plans, maximise economic returns, profitability and job creation.	10%	50%

While the BSLA policy emphasises the centrality of gender equity for equitable reform, there are no clear mechanisms for prioritising women (PLAAS, 2020a). The PAP (2019) proposed that 50% of beneficiaries in each category should be women. Land reform experts have also argued that a formula for resource allocation to promote gender equity is imperative (PLAAS, 2020a). Thus, 50% of public resources allocated in each category of beneficiaries should be reserved for women (PLAAS, 2020a). The inclusion of smallholder farmers remains doubtful since the repeal of the Subdivision of Agricultural Land Act is yet to be signed into law. While Act 126 exempts land acquired for land reform purposes from the restrictions on subdivision, in practice, state officials have been reluctant to subdivide large properties to accommodate smallholder production. The subdivision of agricultural land is not consistent with the large-scale commercial farming model which is considered commercially viable and reflective of successful land reform.

#### 5.4. The release of state land

Release of state land is potentially a progressive development but its positive impacts could be limited by a number of key impediments. Analysts have raised concerns around the lack of guiding principles to ensure that the process is equitable and inclusive. A key concern is that key policy frameworks, meant to guide land identification and beneficiary selection are either non-existent or yet to be finalised.

In spite of recommendations to develop an overarching Land Reform Bill, this recommendation was not adopted by the IMC on land reform. A key policy, the National Beneficiary Selection and Land Reform Policy is still in the pipeline and state land is being released without a policy to ensure equitable outcomes. Much of the state land earmarked for leasing is in the former homelands and some of this land consists of South African Development Trust (SADT) farms originally acquired from white landowners for the purposes of consolidating the former homelands. This land is in proximity to the densely populated former homelands and rural slums and it is doubtful if the landless and land-poor households in these areas will be prioritised.

3. Proposals on gender equity in the PLAAS submission on Draft National Policy on Beneficiary selection and Land Allocation Policy, 2 March 2020.

**Table 3: State land earmarked for release**

Province	Hectares
Eastern Cape	43,000
Free State	8,333
KwaZulu-Natal	3,684
Limpopo	121,567
Mpumalanga	40,206
Northern Cape	12,224
North West	300,000

Given the predominance of policies that emphasise 'commercial viability' as a key criterion for beneficiary selection, there are widespread concerns that the released state land may benefit elites interested in commercial production. The release of large tracts of state land in the former homelands is not equivalent to the redistribution of private commercial farms. As such, while this will significantly increase land available for redistribution, this does not reconfigure spatial inequalities. Less land has been earmarked for release in the Gauteng province and none in the

Western Cape Province (Ramantsima, 2020). Yet the landlessness is prevalent in these provinces and manifests itself in the proliferation of informal settlements, a growing housing backlog and the prevalence of evictions as many of the efforts by the poor to occupy land are characterised as illegal occupations (Ramantsima, 2020). Overall, the release of state land, just like expropriation without compensation, is a mechanism for availing more land and appropriate measures are still necessary to enhance its contribution to equitable land reform.

## 6. A CHANGING AGRARIAN LANDSCAPE

National debate on South Africa's land reform has predominantly focused on the mechanisms of land acquisition in order to unlock the slow pace of land reform. Substantive questions on the rationale for land reform in a rapidly changing world have not been adequately examined. Analysts have not sufficiently addressed the implications of a rapidly changing agrarian landscape for transformative land reform, particularly interrogating the significance of land reform in a rapidly urbanising society<sup>4</sup> (Cousins, 2013). Public debates on

the significance of land reform in contemporary South Africa bring to the fore different societal perspectives on what land reform is for and its role in broader societal transformation.

In Southern Africa, land reform is widely considered an important mechanism to address the adverse impacts of colonial agrarian development policies. Ironically, most post-colonial land reform policies contain some elements of the colonial agrarian development policies whose adverse impacts they seek

4. Cousins (2013) raises other equally important questions on the 'wider significance' of land reform in South Africa and these are as follows: How to acquire land and redistribute land? How to secure tenure rights? Who should be targeted as key beneficiaries? Where should land reform take place by when?

to reverse. Bush and Cliffe's (1984) analysis of the trajectory of agrarian development in post-colonial Zimbabwe provides important insights for migrant labour societies like South Africa that are confronted with entrenched agrarian dualism. Agrarian development policies in the colonial era were conceived as part of attempts to manage the prevalence of agrarian decline, including landlessness in the countryside amidst growing urban unemployment as the increasingly capital-intensive economy could not absorb masses of unskilled and cheap labour displaced from the countryside (Bush and Cliffe, 1984). The colonial authorities sought to deal with the problem of 'worker-peasants' whereby divided families simultaneously occupy rural land while retaining wage employment (Ibid.).

In this policy vision, only the settled peasantry, fully committed to farming, would be allowed access to land. The creation of a class of competent, full-time farmers while ensuring that working-class families with supposedly no real commitment to farming are confined to the city as proletariats ignores the enduring urban-rural linkages (Bush and Cliffe, 1984). Agrarian policies that fixate on ending the divided worker-peasant families have neglected the large population of mostly impoverished people who fall outside of these two categories, who are neither peasants nor workers. The phenomenon of these subaltern populations represents the antecedents of the growing surplus population whose labour is surplus to the needs of capital and who are marginalised in post-apartheid land reform and growth-driven economic policies.

Some of these ideas, which only serve to entrench the rural urban divide, continue to permeate agrarian policies in migrant labour societies. Agrarian development policies have failed to deal with the changing agrarian landscape, particularly the complex migration patterns and interpenetration of the urban and rural spheres. In land reform planning, beneficiaries are often treated as homogenous groups with a primarily agricultural orientation obscuring the role of short-term and long-term migration and the differentiation emanating from the complex patterns of migration. However, as James (2001) argues, the 'stakeholders'

in the rural context may also 'hold stakes' in the urban settings as evidenced by complex straddling of the urban-rural divide.

Research on household dynamics in rural South Africa shows that people from the same household may occupy different points in the continuum between urban and rural spheres. Straddling also takes some generational dimension whereby retired adults reside in rural areas while the younger generation in the same households may occupy the city home. Development initiatives that specifically target specific generational representatives of country dwelling families may be just as important as agrarian reform programmes, given the interpenetration of the rural-urban spheres. It is important to acknowledge that "for most rurally resident householders, village existence is merely one aspect of a broader world in which rural and urban interpenetrate and are interdependent" (James, 2001:106).

Du Toit (2018) questions the 'productionism' which privileges 'agricultural productivity' as integral to rural development, in spite of the growing numbers of a 'displaced precariat' neither engaged in productive agriculture or gainfully employed, with the majority depending on state welfare transfers. Du Toit (2018) argues that land reform needs to account for these rapidly changing realities that have a semblance of or are suggestive of a post-agrarian and post-industrial landscape. There is general consensus on the growing demand for land in South Africa especially amongst the poor social groups and this need for land is not necessarily limited to land for agricultural production (du Toit, 2018).

In a critique of the predominance of the farming paradigm in land reform, Ferguson (2013) identifies the multiple ways in which people use land besides crop production and livestock grazing. These include: to live cheaply and find temporary respite from expensive urban life, to bury their dead properly, and to properly respect, remember and tend to them, to anchor kinship and other social networks by providing a place of connection, to reward political allies through processes of land allocation or sale and the use rural estates for holiday retreats as opposed to agricultural

production by the wealthy (Ferguson, 2013).

With the declining economic utility of labour reserves, rural livelihoods have become complex and multi-layered and the net effect is the emergence of rural politics that are not explicitly linked to rural identities (Scully and Britwum, 2019). Struggles for land and housing stretch across the rural and urban divide and these contestations could potentially be a precursor to “a broader form of politics that move beyond the narrow confines that have traditionally defined the labour reserves” (Scully and Britwum, 2019:423). Accordingly, redistributive policies that expand the social wage may be the appropriate way to address the multifaceted needs of the poor. There is compelling evidence that state investment in education, health, social development and the expansion of social security for the poor households significantly reduces poverty and inequality (World Bank, 2018).

Although the urban and rural are interpenetrated through complex migratory patterns and complex livelihood strategies and shifting identities, poverty still assumes spatial dimensions, with marked differences in levels of deprivation between urban and rural spheres. South Africa’s rural areas have the highest concentration of poverty and in 2006, 60.3 per cent of the poor were in rural areas (World Bank, 2018). While the farming paradigm has predominated in rural development discourse, these efforts have not effectively dealt with agrarian dualism. The agrarian structure remains highly dualistic and unequal with the majority of smallholder farmers and rural dwellers playing a peripheral role in agricultural production and the wider economy (Aliber and Cousins, 2013). In order to reconfigure the dualistic agrarian structure, land reform should target the large numbers of smallholder producers mostly located in the former homelands.

## 7. SIGNIFICANCE OF THE URBAN LAND QUESTION

It is widely acknowledged that land reform policies have tended to focus on rural and agrarian reform and paid little attention to urban land questions (PAP, 2019). According to the PAP (2019:33), “legislation and policies that have developed emanating from Section 25 of the Constitution have had as their major area of focus agriculture, farming and rural development in the main”. Urban planning has not been informed by the imperatives of equitable access to land espoused in Section 25 of the Constitution, especially land redistribution.

The right to housing in Section 26 of the Constitution is integrally connected to and should be read in conjunction with land reform provisions on broadening access to land. Taken together, all of these provisions are meant to ensure spatial transformation through “constitutional support for positive, redistributive measures that promote equitable access to land and housing” (Strauss and Liebenberg, 2014:432). Constitutional imperatives on broadening access to land are often neglected in post-apartheid urban planning which tends to entrench existing spatial inequalities and renders efforts to deal with overcrowding, homelessness and a lack of basic services in urban

areas ineffective (PAP, 2019).

Thus, spatial inequalities are persistent despite the existence of relevant legislation like the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) which is meant to reverse apartheid geography through the promotion of spatial integration. The Tafelberg judgment by the Western Cape high court clearly illustrates how urban planning has been largely driven by the desire to promote private sector investment instead of facilitating the spatial integration of the poor urban dwellers (Hazell and Swaartbooi, 2020). The Western Cape provincial government did not, among other things, appropriately use the provisions of the Government Immovable Asset Management Act 19 of 2004 (GIAMA) which requires any disposal of immovable property considered ‘surplus’ by government departments to be done in a manner that promotes the socio-economic needs of the poor (Hazell and Swaartbooi, 2020). A well-located property that could have been made available for low-cost housing in the city of Cape Town was instead sold to a private entity in order to generate revenue for the city<sup>5</sup>. This was in spite of the initial considerations that provided compelling evidence on the suitability of the

5. Adonisi and Others v Minister for Transport and Public Works Western Cape and Others; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others.

Tafelberg property for social housing for the poor.

The exclusion of the poor and marginalised in post-apartheid cities is connected to the high modernist development approaches whereby cities are seen as growth engines. In this modernist vision, urban policies are meant to stimulate rapid economic growth to facilitate structural transformation through the movement of labour from the agricultural sector to industry and services (Colenbrander, 2016). Accordingly, urban policies tend to favour investors, property developers and other wealthy groups whose activities enable policy makers to promote economic growth and expand revenue sources. In some instances, elite capture and corruption are prevalent in cities

as powerful interests capture economic opportunities through rent-seeking practices (Olver, 2019).

In contrast, the poor and marginalised do not fit into the modernist vision of urban development. The poor are evicted from prime urban spaces and confined to peripheral areas with no access to jobs and basic services. Thus, the urban land crisis is characterised by widespread evictions of the poor and their confinement to peripheral areas in informal settlements and peri-urban areas. Available estimates indicate that “approximately 80% of the South African population in urban areas has ‘off-register’ rights or no rights to land tenure that are recognised in law” (PAP, 2019:35).

## 8. RESEARCH METHODOLOGY AND DESIGN

The equitable access to land project examines the different conceptions of what constitutes a ‘success’ in land reform. Land reform policies have traditionally focused on agricultural production and often framed success and viability in land reform economic success, productivity and profitability. The ‘productionist’ framing of success has resulted in the neglect of other important measures of success in land reform. In addition, the treatment of land reform as synonymous with land and agrarian reform has seen the neglect of the urban land question.

The report is based on insights gathered from land reform beneficiaries and key actors in the land sector. The key informant interviews were conducted with civil society, state officials, land and agricultural experts. A series of small workshops with key informants and land reform beneficiaries also generated key insights on different conceptions of success in land reform and workshop participants addressed key questions on ‘who is land reform for?’ ‘What should land reform essentially seek to achieve?’ The series of small workshops culminated in a major workshop conducted from 30 November - 2 December 2020 where 55 participants from the land sector participated (PLAAS, 2020b).

**Table 4: Research participants**

Main activity	No. of research participants/meetings
In-depth interviews with land reform beneficiaries	15
In-depth interviews with informal settlement dwellers	18
Key informant interviews	17
Small workshops with civil society organisations (CSOs) and land reform beneficiaries in four provinces: Eastern Cape, Free State, Gauteng and North West	37
Main workshop	55 workshop participants
Core reference group meetings	2 meetings

During the course of the research, two key meetings with the reference group were essential in teasing important themes for the research project and for analysing emerging insights. Participants from the small workshops were invited to participate in the inclusive dialogue. Among other things, the inclusive dialogue foregrounded questions on what successful land re-

form should seek to achieve and sought to identify the key elements of an equitable land reform process in South Africa. The project also relied on secondary research mainly to analyse key policy documents on land reform and teased out the key aspects of these policies and their implications for equitable land reform in South Africa.

## 9. THE PREDOMINANCE OF 'PRODUCTIONIST' NOTIONS OF SUCCESS IN LAND REDISTRIBUTION

One of the key arguments emerging from the workshop discussions and empirical research is that land reform has privileged a 'productionist' framing of 'viability' (Cousins and Scoones, 2020). The 'productionist' framing of viability tends to privilege the large-scale commercial farming model. In this sense, land redistribution tends to replicate the large-scale commercial farming model and this is mostly evident in the failure to subdivide commercial farmland where necessary. Despite the fact that land designated for land redistribution is exempt from restrictions on subdivision, there are few instances where policy makers allow subdivision of land to accommodate smallholder farmers. As a result, other notions of viability, for instance, the livelihoods welfarist approaches to viability that seek to promote household food production as a safety net have been neglected. In addition, developmentalist notions of viability that focus on the promotion of market-oriented smallholder farmers have also been neglected in land redistribution.

Discussions on the framing of success in land redistribution confirm that productionist notions of 'viability' remain predominant. Policy makers tend to prioritise economic viability and profitability as the primary measures of success in land reform projects. The non-monetary benefits of land reform are considered peripheral (Hall, 2009). Organised agriculture including black farmers' associations have coalesced around a conservative approach to land redistribution. Land reform is seen as significant to the extent that it contributes to economic growth and development. As one key informant argued:

*There is an expectation that everybody is going to get land for free. Land is a productive asset that contributes to the economy of our country. We cannot afford to give it freely to people who cannot utilise it productively, because then it is not generating tax to create more development, to be productive for our country (Nkosi, Interview 2020).*

In terms of this conservative approach, broadening access to land should not compromise the stability of the agricultural sector. National food security is a key consideration in land redistribution. According to these arguments land redistribution should not disrupt the food system. Land reform should therefore be spearheaded by agribusinesses, commodity associations and large-scale commercial farmers, through strategic partnerships (Greenberg 2015). In this sense, food supply to the growing urban population is guaranteed. Large-scale land redistribution is mistakenly equated to the creation of 'subsistence farmers' who will not be able to meet the growing demand for food in the context of rapid urbanisation. However, this perspective overlooks the fact that the increase in productivity associated with industrial forms of farming does not translate to equitable access to food. Also, there is growing concentration in the commercial farming sector with a few large capitalist farms producing the bulk of the national food supplies.

The differentiation in the commercial farming sector means that some farms can be redistributed without any significant impact on food supplies. There is growing evidence that instead of broadening small-



holder farmers' access to land, land redistribution tends to replicate the large-scale commercial farming model. In most instances, whole and undivided properties are allocated to beneficiaries. Production and business plans are used to enforce discipline and ensure that previous land use activities are maintained on redistributed land. Affluent groups and elites are seen as competent beneficiaries whose access to resources gives them a comparative advantage relative to the poor. Different groups of the well-off increasingly seek opportunities to accumulate wealth in land redistribution. As one key informant noted:

*You have black commercial farmers' associations for instance, whose members are often seen as beneficiaries of affirmative action. But if you look closely at the profile of the farmers the government is promoting, these are not the rural poor from the grassroots. They are mostly people from the urban areas and in some instances people from different provinces get land ahead of the local people (Mabaso, Interview 2020).*

There is evidence of elite capture of land redistribution farms and land grabbing by different groups of elites in municipal commonages and in communal areas. Black commercial farmers have coalesced around a narrow policy vision to deracialise the commercial farming sector by developing a select group of prosperous black commercial farmers. Overall, the class agenda of land reform has become obscured and poor social classes are increasingly marginalised (Hall, 2012).

Productionist notions of 'viability' are also evident in the pervasiveness of the 'farming paradigm' in land reform policy. There is a strong argument for land reform to go beyond the 'farming paradigm' where land reform policies largely focus on promoting agricultural production. The 'productionist' framing of viability in land reform fails to respond to the diverse and wide-ranging land needs of the poor. Much of the focus has been on the transfer of agricultural land. However, land demand does not exist in isolation from

demand for other assets and services (PAP, 2019). In many instances, land policies that narrowly focus on agricultural production overlook the multiple needs that characterise the demand for land. Thus, the productionist notions of 'viability' also neglect the different, geographically-differentiated land needs. The poor in urban, peri-urban, semi-rural and deep rural areas have different land needs (Aliber, 2019).

Our research shows that land reform continues to be centralised and efforts to decentralise the land reform delivery process have been ineffective, partial and fragmented. Many key informants have argued that land reform should be integrated into the local planning processes. Municipal Integrated Development Plans (IDPs) should factor in land reform. The re-introduction of area-based planning as a mechanism for beneficiary identification and land allocation is important. This will allow the state to effectively respond to the differentiated needs of the poor and to transcend the farming paradigm that continues to inform land reform policies.

### 9.1. Beyond productionism: A pro-poor land reform

Workshop discussions and key informant interviews argued for the reframing of the land question to factor in the rapidly changing agrarian landscape distinctly characterised by jobless de-agrarianisation. Productionism is seen as one of the key obstacles in reimagining the role of land reform in societal transformation. Cousins (2007) notes that while the flow of wage earnings into rural production is reduced, the scarcity of viable livelihood alternatives outside of farming means that agricultural activities and resource harvesting remain an important livelihood component. Cash still remains important for the purchase of agricultural inputs and livestock and insufficient cash resources tend to be the predominant reason why people disengage from farming.

In the light of these vulnerabilities, an expanded view of who should benefit from post-apartheid land redistribution is necessary in order to accommodate a wider view of legitimate types of land use (Hornby and Cousins, 2019). Thus, the framing of viability needs to

go beyond the dominant 'productionist' criteria and consider livelihood and welfare issues (Cousins and Scoones, 2010). A livelihoods-focused framing of viability takes the multiple livelihoods of the poor as the basis for equitable land redistribution (see Cousins and Scoones, 2010). Welfare issues should feature prominently in a context of widespread poverty and inequality (Cousins and Scoones, 2010).

The research project incorporated discussions on the key elements of equitable land reform. These are some of the key priorities for equitable land reform beyond the narrow policy vision that focuses on 'productionism, both in the sense of replicating the large-scale commercial farming model and in relation to privileging agricultural land reform while neglecting multiple and diverse land needs. The equitable access to land project created space for key informants, land reform beneficiaries and workshop participants to identify the key elements and priorities for a successful, equitable and pro-poor land redistribution.

## 9.2. Access to land by small-scale farmers

Small-scale farming is often seen as unviable – less productive and profitable. According to Aliber and Hall (2012) policy support for smallholder farmers in South Africa has largely revolved around assisting them to 'expand and commercialise'. The underlying thinking in smallholder agricultural support policies is that 'smallholder black farmers' are 'emerging farmers'. This implies that smallholder farmers "are bona fide farmers only in so far as they begin to resemble large-scale commercial farmers" (Aliber and Hall, 2012:548).

However, there are compelling arguments for the support of small-scale farming given its importance in creating employment and livelihood opportunities for the poor. Within land reform, the subdivision of land where appropriate can ensure that the land needs of smallholder producers are met. Land redistribution should prioritise small-scale farmers who are mostly confined to the former homelands. Commercial farmland availed through land redistribution and related programmes like the state land release initiative, should target households engaged in small-

scale farming from neighbouring localities. This is in contrast to instances where land is allocated to urban elites and prominent people from different provinces.

Welfarist notions of viability emphasise the importance of small-scale farming in supplementing domestic food requirements (Cousins and Scoones, 2010). Secure national food supplies do not guarantee food security at household level, especially for poor households who cannot afford to purchase food. However, many rural households including those engaged in small-scale farming "are increasingly net consumers rather than net producers of foods" as supermarket expansion undermines local food production (Baiphethi and Jacobs, 2009:464). Broadening access to land for the landless poor may enhance household food production and security. Developmentalist livelihood notions of viability in land reform consider farming as one of the diverse livelihood sources that are important for households (Cousins and Scoones, 2010).

However, agricultural support for the smallholder farmers has been fragmented, partial and inadequate. In its pursuit of the commercialisation agenda within the smallholder sector, the government has tended to concentrate public resources on a small number of beneficiaries. The 'accumulation of the few' in the smallholder sector is reminiscent of the wider patterns in land reform, where a few elites are benefiting from land redistribution (Aliber and Hall, 2012; Mtero et al., 2019). Thus, commercial success is currently an important aspect in the framing of viability in land reform and smallholder support policies. This in turn profoundly influences the allocation of public resources and targeting of beneficiaries.

## 9.3. Gender equity and women's underrepresentation

There is general consensus across different sectors of society that gender equity is an important criterion for measuring success in land reform. However, gender equity remains elusive and evidence reveals that women are still underrepresented as beneficiaries of land reform. While there is lack of reliable statistics on gender equity, available data shows that only 23

percent of post-apartheid land redistribution beneficiaries are women (Kepe and Hall, 2016). Concerns on the lack of gender equity have been articulated by key informants in this project.

*Women in rural areas in particular should benefit from land reform and land reform should seek to promote livelihoods and household food security. When we talk about the promotion of livelihoods we are not talking about game farming for instance, but the direct support for household food production where women access a small parcel of land to produce food and are able to market any surplus (Asanda, Interview 2020).*

However, the targeting of women in land reform has been poor. According to Walker (2003) land reform programmes have not sufficiently considered the implications of a demand-driven programme for gender policy. Walker (2003:142) further notes that land reform policies tend to overlook “the way in which power relations and divisions within communities structure how the demand gets articulated and by whom”. Despite progressive policy pronouncements on gender equity, this has not translated into effective targeting and prioritisation of women especially at project levels.

#### **9.4. Legally secure tenure and recognition of informal land rights**

The right to equitable access to land cannot be fully realised without legally secure tenure for land reform beneficiaries. Since 2006, the state has adopted the Proactive Land Acquisition Strategy (PLAS) as the flagship land redistribution programme. Previous land redistribution programmes, namely SLAG and LRAD transferred ownership rights but PLAS only leases land on a long-term basis. Land reform beneficiaries are essentially tenants on state land. There are growing concerns about the widespread evictions of occupants of state land (Mkentangane, 2021). These reports indicate that claims against the state for unprocedural eviction of beneficiaries occupying state land have led claim against the state amounting to more than

R2 billion (Mkentangane, 2021). Widespread tenure insecurity on state land raises important questions as to whether the notion of state custodianship introduced as part of the 18th constitutional amendment, can be a feasible basis for equitable land reform.

This confirms the concerns raised in the PAP report (2019) on weak land administration systems – and the importance of the panel’s recommendations on the adoption of land administration as a fourth component of land reform – in addition to land redistribution, land tenure and restitution. The finalisation of the Land Court Bill and subsequent establishment of a Land Court is critical in dealing with some of the conflicts related to the weak land administration systems.

Many key informants argued that equitable access to land is also about secure land rights. Some key informants argued that landlessness does not only refer to instances where people do not own land but also to the vulnerability of people who work the land without any secure rights (Bonani, Interview 2020). A successful land reform would be one that addresses the widespread eviction of the poor and land grabs by the wealthy. Key informants also highlighted instances of precariousness in different parts of the country and drew attention to weak land administration systems as one of the underlying causes of evictions.

#### **9.5. Diverse land needs**

The complexity of land demand is not often not captured by the conventional policy binary between urban and rural urban needs whose provenance is apartheid spatial engineering where rural policies were meant to promote ‘full-time farmers’ while social questions in urban areas would be around support for wage earning, often male-headed households. With agricultural decline and widespread unemployment, there is evidence of a growing urban proletariat with peasant characteristics - a phenomenon that reflects that land demand in urban contexts and related land occupations are not simply about the land for housing or residential purposes but are also related to land demand for food production in urban spaces, in proximity to markets (Jacobs, 2018).

The rural-urban migration patterns have become complex, with increasing evidence of reverse patterns. In some instances, well-off urban elites occupy land in peri-urban areas, small towns and rural areas where they construct large residential properties. Such resource flows do not reflect the traditional channelling of wage earnings and remittances to underwrite rural agricultural production but instead these resources are used to sustain the burgeoning rural estate market. Land demand in rural areas is not just for agrarian production but rural residents also require access to decent housing, water and sanitation, electricity, infrastructure and other modern amenities.

Another complexity is that non-commodified land uses are critical but often overlooked in land reform policies. Land provides respite for those experiencing livelihood shocks since it provides the basis or an anchor for the poor and destitute to access or leverage informal forms of social support – familial, kinship and other forms of reciprocal social networks (du Toit, 2018). These reciprocal relationships are vital for social reproduction amongst the poor. Others argue that “land is valuable beyond its utility as a factor of production or a site of reproduction” (Fay, 2015:1085). According to Fay (2015:1085), “rural residents use land to make rural areas attractive to migrant children” and in this case land is important in that it affirms and cultivates a sense of belonging even for the younger generations who might have tenuous connections with rural life. Considering the above, the binary divide between rural and urban land questions is a huge impediment to the development of holistic and integrated land reform policies that address complex and rapidly changing social realities of poverty and inequality.

The question of what land reform is for should be at the centre of any progressive land redistribution policy since it casts the spotlight on diverse land needs driving land demand in South Africa. Consequently, decisions on land acquisition should be informed by the existing land demand. While there is no up-to-date survey on the extent of land demand in South Africa,

the extent and nature of land demand can be ascertained from the diverse circumstances that denote land hunger (PAP, 2019). For instance, “overcrowding in black townships, proliferation of informal settlements, and the densification of rural areas are evidence of widespread land demand” (PAP, 2019:55). According to the PAP (2019), “land demand, or need, is differentiated and geographically distinct” given that “people in different areas need different types of land in different sized parcels, for different purposes” (Ibid.:55).

As Aliber (2019) notes, distinct land needs are associated with different localities, for instance, urban, peri-urban, semi-rural and deep rural areas are confronted with a different set of land-related challenges. It is also noteworthy that land demand does not exist in isolation from demands for other assets and social services. Conventional arguments that people need jobs as opposed to land overlook the fact that “securing access to land and rights to remain on that land may be the route to accessing other needs, such as getting access to schools, clinics, and jobs where these exist” (PAP, 2019:55).

## 9.6. Decentralised and participatory land reform

There is general consensus that land redistribution must address existing land needs and this requires decentralised and localised land reform delivery processes. In 2006, efforts to adopt area-based planning represented attempts to foster a demand-driven land reform (Hall, 2009). The introduction of area-based planning was seen as a positive development that would give primacy to the issue of “who gets what land by assessing and prioritising different land needs” (Hall, 2009:23). This is in contrast to the tendency to exclusively focus on “the question of how to get the land” (Hall, 2009:23). There is general consensus that area-based planning through the municipal IDP process should be at the centre of land reform planning. A key informant noted that:

*There is a need to ensure that area-based planning is part of land reform and broader spatial planning processes and policies like SPLUMA. This will enable policy makers to look at the number of people in a particular area, the kind of land needs that exist, and try to proactively plan for and address those needs. The biggest land needs are for housing around cities and towns. There are also farmers around urban areas that need to be closer to markets (David, Interview 2021).*

In spite of the huge potential for area-based land reform to facilitate more democratic and inclusive planning processes, these efforts soon encountered significant constraints. An initial review revealed that local municipalities considered these as an ‘unfunded mandate’ that was not ‘legislated’ and could not be properly integrated into municipal decision-making processes (DRDLR, 2012). It was impossible, from the outset, to effectively incorporate area-based planning into municipal integrated development plans (IDPs). However, many land experts argue that the incorporation of area-based land reform in municipal IDPs has great potential to deliver a more localised land reform programme that is informed by the prevailing land needs (Hall, 2009, Aliber, 2019).

However, instances of elite capture and corruption have featured prominently within decentralised land reform decision-making structures (Mtero et al., 2019). Local elites and other powerful interests have tended to disproportionately influence decision-making processes in District Land Reform Committees (DLRCs) (Ibid.). The idea of Land Management Committees (LMCs) with broad local representation including commercial farmers and agribusiness may potentially yield a democratic and pro-poor land reform (Vink and Kirsten, 2019). A key challenge remains – the unequal and exploitative relationships that enable powerful interests to capture land redistribution often result in poor land redistribution outcomes (Mtero et al., 2019).

### 9.7. Access to land and other natural resources

The public dialogues and key informant interviews have shown that there is growing consensus among some key role players in the land sector to see the broadening of access to land as entailing other natural resources, for instance, water, minerals and access to marine resources for coastal communities. According to this view, land on its own without access to other important resources, represents a narrow interpretation of the Constitution.

*When we talk about equitable access to land we should include those local communities that rely on natural resources to support their livelihoods. This is not necessarily about ownership of land but access to natural resources. For instance, there are people living along the coastal areas or in proximity to forests. At the moment, most of these communities have no adequate access to the natural resources that are vital for their livelihoods (Bongani, Interview 2020).*

Those advocating for an expanded understanding of equitable access to land to include other natural resources have cited Section 25 (8) of the Constitution. Research participants have highlighted a long-standing concern around lack of access to water rights as a key impediment to equitable land reform. Smallholder farmers and land reform beneficiaries struggle to access water rights in post-apartheid South Africa. In South Africa, land dispossession deprived many people of access to water and to water resources (van Koppen et al., 2009). However, post-apartheid land redistribution has not effectively broadened access to water rights for land reform beneficiaries and smallholder farmers. According to van Koppen et al (2009), in both land redistribution and restitution, riparian water rights were not always completely registered as part of land entitlement.

Table 5: Key considerations for equitable access to land

Key considerations for equitable land reform	Description
Access to land by smallholders to promote household food production and accumulation from below	Making the agrarian structure broad and inclusive and restructuring the agricultural sector to promote smallholders and their participation in the wider value chains. Subdivision of land to accommodate land requirements of smallholder farming and production support are important requirements for agrarian transformation to occur. Smallholder access to land is key to household food production and food security. Secure national food supplies do not guarantee food security at household level especially for poor households who cannot afford to purchase food. Access to land therefore enables poor households to supplement their food requirements by producing their own food. In addition, small-scale farmers need access to land to promote accumulation from below.
Gender representation	Gender equity should be at the centre of an equitable and pro-poor land reform. Women are actively involved in household production and there is a need for equal representation of women as beneficiaries in land reform projects including representation in decision-making structures. However, high-level policies on gender inclusion are not put into practice, especially at project level.
Legally secure tenure and recognition of informal rights	Broadening access to land requires securing the land rights of vulnerable groups in both urban and rural contexts. In rural areas, women's land rights remain precarious while traditional authorities are implicated in land dispossessions when large-scale investments are introduced without the consent of locals and regard for household and family land rights. The proliferation of informal settlements including widespread evictions is evidence of persistent spatial inequalities in post-apartheid cities. Recognition of informal land rights is integral to the realisation of equitable land reform.
Diverse land needs	In the context of de-agrarianisation where the role of farming is, in many localities, diminishing and there is failure of the formal economy to absorb surplus labour, the divide between rural and urban has become increasingly blurred. Land reform needs to accommodate diverse land needs and be anchored in the land demands articulated at the local level which may include land for farming, housing, and non-agricultural activities – for instance small businesses or other micro-enterprise activities. In rural contexts, there are instances where there is demand for housing land while the idea of urban agriculture needs serious policy consideration. In addition, besides the rural and urban spheres, there are land needs associated with semi-rural and peri-urban areas that need to be incorporated in land reform. Non-commodified land uses are important yet often overlooked in land reform policy.
Decentralised and participatory land reform	Democratic, participatory and decentralised land reform structures are key to the realisation of an equitable and successful land reform. The pressure to meet the set numerical targets has often resulted in a rushed programme with little focus on the establishment of appropriate land reform delivery institutions. Area-based planning and the integration of land reform into localised municipal planning processes such as municipal Integrated Development Plans (IDPs) is important. These localised institutions could be used for both land identification and beneficiary selection.
Access to land and other natural resources	Others argue for an expanded interpretation of equitable access to land which, in addition to land, considers other important resources that are essential in supporting local livelihoods. These include access to water, marine resources and access to forests for wood and medicinal plants. Currently, equitable access to land tends to emphasise the allocation of land for agricultural purposes and land reform does not sufficiently address access to other essential resources.
Agrarian reform	Land reform policies focus on integrating land reform beneficiaries into the corporate food system instead of promoting local food markets that are relatively easy to access for smallholder farmers. Most smallholder farmers are implicated in unequal market relations with powerful actors in the agro-value chains. There is need to ensure that land reform policies are in sync with agricultural policies. Besides the transfer of land, there is need for sustained support so that smallholder farmers are not trapped in exploitative relationships in a concentrated food system.
Addressing spatial inequalities	Urban land issues remain peripheral and equitable access to land has not been sufficiently prioritised in the provision of low-cost housing, given the tendency to allocate marginal and peripheral land to the poor and landless. This perpetuates spatial inequalities in cities as the urban poor have no access to well-suited land that is close to centres of economic activity, employment opportunities, transport networks and social amenities. In agricultural land reform, it is imperative to reconfigure the dualistic and unequal agrarian structure so as to make it more inclusive.
Redistributive policies and broadening state welfare transfers	Some in the land sector argue that the agrarian landscape is vastly transformed, small-scale rural production in the former homelands has drastically declined, and unemployment is widespread. As a result, redistributive policies beyond the farming paradigm should be promoted to enhance the welfare of the poor. Some of these arguments resonate with postulations about a post-agrarian era.

### 9.8. Agrarian reform

Land reform policies focus on integrating land reform beneficiaries into the corporate food system instead of promoting local food markets that are relatively easy to access for smallholder farmers. Most smallholder farmers are implicated in unequal market relations with powerful actors in the agro-value chains. Some small-scale farmers supply loose value chains in informal markets while other small-scale farmers supply tightly-controlled value chains and have contracts with large-retail supermarkets (Neves, 2020). State support needs to target these different smallholder producers to enhance their market access. However, there is the dominance of large corporations in the South African economy and this concentration tends to be replicated in agriculture where a few large agribusiness corporations dominate the food system while a few commercial farms dominate primary production. Agricultural restructuring through liberalisation and deregulation of the sector saw the withdrawal of input and credit subsidies, single-channel marketing and other forms of institutional support for farmers. As a result, large-scale farmers reliant on scale economies have been able to survive a highly competitive environment. Essentially, post-apartheid land reform, particularly attempts to reconfigure the agrarian structure by promoting smallholder farmers, emerged in a precarious environment characterised by little state support for agriculture. In sum, equitable land reform needs to go beyond the transfer of land and should include agrarian reform to ensure that smallholder farmers access appropriate support.

### 9.9. Reversing spatial inequalities

Equitable access to land is not just about the transfer of land but should prioritise reversing spatial inequalities which characterise urban and rural areas. The current land reform policies have not made much impact in terms of addressing spatial inequalities. In urban areas, housing policies have not factored in the imperatives on broadening access to land outlined in section 25(5) of the Constitution. Informal settlement dwellers tend to occupy marginal land which is far away from economic opportunities.

In addition, there is a narrow focus on housing in spite of the existence of demand for agricultural land in peri-urban areas. While land for residential purposes remains a key requirement in urban and peri-urban areas, there is evidence that some people in urban areas require land for farming. Small-scale farmers occupy land in the margins of the city to produce food. Some farmers practice livestock farming. In some instances, there are conflicts between those who occupy peri-urban land for farming and those who need land for residential purposes. The failure of the urban poor to access land for both residential and farming purposes continues to be a key feature of urban land inequalities in post-apartheid South Africa.

In agricultural land reform, the agrarian structure remains dualistic and highly unequal. The replication of the large-scale commercial farming model through a policy of de-racialisation by incorporating a select segment of commercial farmers has not transformed the commercial farming sector. The approximately 4 million smallholder farmers located in around 2 million households continue to be confined to the former homelands without adequate access to land and access to production support and appropriate infrastructure (Aliber and Cousins, 2013).

### 9.10. Redistributive policies and broadening state welfare transfers

Agrarian development policies have often been formulated on the basis of categorizing people into 'full-time farmers' who require 'economic farming units' and 'urban proletariats' whose primary requirement would be residential land and housing (Bush and Cliffe, 1984). However, this binary approach to development questions neglects vast populations of the marginal groups who are neither full-time farmers nor have access to wage income. These subaltern classes form part of the surplus population which includes "marginal farmers, or those too poor to farm" (Bernstein, 2010:105) and those with no access to formal jobs (Li, 2010; Ferguson and Li, 2018). South Africa is characterised by a vastly transformed agrarian landscape whose key features include widespread

vulnerability, dwindling agrarian livelihoods, growing reliance on state welfare transfers, and scant employment opportunities in the wider economy amidst incessant urbanisation (Cousins, 2007; du Toit, 2018).

The enduring and widespread poverty and inequality in South Africa means that a narrow focus on the transfer of land to the poor is an insufficient intervention. According to Ferguson (2013:173):

*An exclusive focus on production as the problem, and more productive agriculture as the solution, blinds us to both most of the things that people, in fact, do with land, and to many of the most important issues facing low-income Southern Africans. Giving a more central place to processes of distribution, on the other hand, may help us to see just how much is lost if we allow distribution to be treat-*

*ed as an afterthought to production – or the land question to be reduced to the agrarian question.*

Thus, there is an urgent need for redistributive policies that would expand the social wage particularly the universal income grant. The strength of such redistributive measures is that they go beyond the farming paradigm which narrowly focuses on agricultural production and consider the complex and multiple livelihood sources for the marginalised which include a significant component of non-farm sources of income. A universal basic income grant, for instance, has huge potential to enhance livelihoods of the poor who increasingly disengage from farming with limited opportunities for their labour to be absorbed in the wider economy. This resonates with postulations about a post-agrarian era (Ferguson, 2013).

## 10. CONCLUSION

In conclusion, the constitutionalised right to access land has not been put into practice as evidenced by the failure to broaden access to land on an equitable basis. While it is important to analyse the extent to which constitutional imperatives on equitable access to land have been implemented, this alone does not provide an adequate explanation of the underlying causes of land reform failures. The idea of broadening access to land is essentially about creating enabling conditions for people to derive benefits from land. However, not everyone is able to derive benefits from the existing opportunities (Pienaar, 2014). A more fruitful way of examining the failure to achieve an equitable and pro-poor land reform is to foreground the contested nature of land reform by highlighting the different conceptions of what constitutes failure or success in land reform (Cousins and Scoones, 2010). This essentially represents an analysis of competing societal visions of what a land reform should prioritise, and different understandings of its role in development and social transformation.

In agricultural land reform, land reform policies have prioritised 'commercial viability' as the key crite-

riion of measuring success. In this paradigm, the primary goal of land reform is to enhance productivity and profitability in agriculture and ensure that the sector significantly contributes to economic growth. In contrast, the land needs of the marginalised who may not be interested in large-scale commercial farming are not prioritised. Similarly, urban land reform remains constrained by modernist policy visions which envisage cities as engines of economic growth where urban growth is associated with transition from agricultural forms of employment to formal jobs in the industrial and service sectors. Urban policies are meant to incentivise investment by private corporations, property developers and other wealthy groups. The marginalised and poor groups are excluded from the inner city and prime urban spaces. This has resulted in the proliferation of informal settlements especially in peri-urban areas. Broadening access to land requires a more inclusive understanding of what 'success' means in both urban and rural spheres and this should transcend the corporatist notions of cities as growth engines and the exclusive focus on 'commercial viability' as a key measure of success in agricultural land reform.



## 11. REFERENCES

1. African News Agency.(2018). *Inter-ministerial committee on land reform holds inaugural meeting*, <https://www.iol.co.za/news/politics/inter-ministerial-committee-on-land-reform-holds-inaugural-meeting-16394339>
2. Aliber, M. (2019). *How can we promote a range of livelihood opportunities through land redistribution?* Bellville: Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape, Working Paper No. 58.
3. Aliber, M., and Cousins, B. (2013). Livelihoods after land reform in South Africa. *Journal of Agrarian Change*, Vol. 13, Issue 1, 140-165.
4. Aliber, M., Maluleke, T., Manenze, T., Paradza, G., and Cousins, B. (2013). *Land reform and livelihoods: Trajectories of change in northern Limpopo Province*. South Africa. Cape Town: HSRC Press.
5. Ashforth, A. (1990). Reckoning schemes of legitimation: On commissions of inquiry as power/ knowledge forms. *Journal of Historical Sociology*, Vol. 3, No. 1, 1-22.
6. Baiphethi, M.N and Jacobs, P.T. (2009). The contribution of subsistence farming to food security in South Africa. *Agrekon*, Vol 48, No 4, 459-482.
7. Bernstein, H. (1998). Social change in the South African countryside? Land and production, poverty and power. *Journal of Peasant Studies*, Vol. 25, Issue 4, 1-32
8. Bernstein, H. (2003). Land reform in Southern Africa in world-historical perspective. *Review of African Political Economy*, Vol. 30, No. 96, 203-226.
9. Bernstein, H. (2010). *Class dynamics of agrarian change*. Fernwood Publishing: Halifax and Winnipeg.
10. Borras, S. M. (2007). *Pro-poor land reform: a critique*. Ottawa: University of Ottawa Press.
11. Borras, S. M., and Franco, J. (2010). Contemporary discourses and contestations around pro-poor land policies and land governance. *Journal of Agrarian Change*, Vol. 10, No. 1, 1–32.
12. Budlender, G. (1992). The right to equitable access to land. *South African Journal on Human Rights*, Vol. 8, Issue 3, 295-304.
13. Bush, R., and Cliffe, L. (1984). Agrarian policy in migrant labour societies: Reform or transformation in Zimbabwe? *Review of African Political Economy*, Vol. 11, Issue 29, 77-94.
14. Centre for Development and Enterprise. (2008). *Land reform in South Africa: getting back on track*. Johannesburg: Centre for Development and Enterprise Research No 16.
15. Colenbrander, S. (2016). *Cities as engines of economic growth: the case for providing basic infrastructure and services in urban areas*. London: IIED Working Paper.
16. Cousins, B. (2007). Agrarian reform and the 'two economies': Transforming South Africa's countryside. In L. Ntsebeza and R. Hall, *The land question in South Africa: the challenge of transformation and redistribution* (pp. 220-245). Cape Town: HSRC Press.
17. Cousins, B. (2013). Land redistribution, populism and elite capture: new land reform policy proposals under the microscope. *The Journal of the Helen Suzman Foundation*, Issue 70, 11-19.
18. Cousins, B., and Scoones, I. (2010). Contested paradigms of 'viability' in redistributive land reform: Perspectives from Southern Africa. *Journal of Peasant Studies*, Vol. 37, No. 1, 31-66.
19. Department of Land Affairs. (1997). *White Paper on South African Land Policy*. Department of Land Affairs. Pretoria: Republic of South Africa.
20. Department of Land Reform and Rural Development. (2013). *State Land Lease and Disposal Policy*. Pretoria: Republic of South Africa.
21. Department of Land Reform and Rural Development. (2020). *Beneficiary Selection and Land Allocation Policy*. Pretoria: Republic of South Africa.
22. Department of Rural Development and Land Reform. (2012). *A rapid inventory and evaluation of the state of area based rural development and land reform plans in South Africa, for the period of three months*. Pretoria: Department of Rural Development and Land Reform (DRDLR).

23. Desai, A. (2018). The Zuma moment: between tender-based capitalists and radical economic transformation. *Journal of Contemporary African Studies*, Vol. 36, Issue 4, 499-513.
24. du Toit, A. (2013). Real acts, imagined landscapes: Reflections on the discourses of land reform in South Africa after 1994. *Journal of Agrarian Change*, 13, No. 1, 16-22.
25. du Toit, A. (2018). Without the blanket of the land: Agrarian change and biopolitics in post-apartheid South Africa. *Journal of Peasant Studies*, Vol. 45, Issue 5-6, 1086-1107.
26. du Toit, A. (2019). *Whose land question: policy deliberation and populist reason in the South African land debate*. Bellville: Institute for Poverty, Land and Agrarian Studies (PLAAS), Working Paper 60.
27. Economic Freedom Fighters (EFF) (2021). *State custodianship of land is the only rational approach to expropriation without compensation: The Economic Freedom Fighters Position*, May 2021.
28. Fay, D. (2015). Keeping land for their children: Generation, migration and land in Southern Africa. *Journal of Southern African Studies*, Vol. 41, Issue 5, 1083-1097.
29. Ferguson, J. (2013). How to do things with land: A distributive perspective on rural livelihoods in Southern Africa. *Journal of Agrarian Change*, Vol. 3, No. 1, 166-174.
30. Ferguson, J., and Li, T.M. (2018). *Beyond the "proper job": Political-economic analysis after the century of labouring man*. Working Paper 51. PLAAS, UWC: Bellville.
31. Greenberg, S. (2015). Agrarian reform and South Africa's agro-food system. *Journal of Peasant Studies*, Vol. 42, No. 5, 957-979.
32. Hall, R. (2004). A political economy of land reform in South Africa. *Review of African Political Economy*, Vol. 31, No. 100, 213-227.
33. Hall, R. (2009). Land reform for what? Land use, production and livelihoods. In R. Hall (ed.). *Another Countryside: Policy options for land and agrarian reform in South Africa* (pp. 23-60). Bellville: Institute for Poverty, Land and Agrarian Studies, University of the Western Cape.
34. Hall, R. (2012). The reinvention of land redistribution: Three cycles of policy 1994-2012. *Strategies to overcome poverty and inequality: Towards Carnegie III, 3 - 7 September 2012*, 1-44. Cape Town: University of Cape Town.
35. Hall, R., and Cliffe, L. (2009). Introduction. In R. Hall (ed.). *Another countryside: Policy options for land and agrarian reform in South Africa* (pp.1-19). Bellville: Institute for Poverty, Land and Agrarian Studies, University of the Western Cape.
36. Hazell, K and Swaartbooi, N. 2020. *Spatial injustice remains at core of rising inequality*. OP-ED, Daily Maverick. 10 September 2020.
37. High Level Panel. (2017). *High Level Panel (HLP) of Parliament report on assessment of key legislation and the acceleration of fundamental change*. Cape Town: Parliament, Republic of South Africa.
38. Hornby, D., and Cousins, B. (2019). "Reproducing the social": Contradictory interconnections between land, cattle production and household relations in the Besters Land Reform Project, South Africa. *Anthropology Southern Africa*, Vol. 42, Issue 3, 202-216.
39. Jacobs, R. (2018). An urban proletariat with peasant characteristics: land occupations and livestock raising in South Africa. *Journal of Peasant Studies*, Vol. 45, No. 5-6, 884-903.
40. James, D. (2001). Land for the landless: Conflicting images of rural and urban in South Africa's land reform programme. *Journal of Contemporary African Studies* Vol. 19, Issue 1, 93-109.
41. Jara, M. 2019. *Land Redistribution in South Africa: Pondering the Solidarity Economy Alternative*. Presented at: Resolving the Land Question: Land redistribution for equitable access to land in South Africa Conference. Institute for Poverty, Land and Agrarian Studies, Bellville
42. Jara, M., and Hall, R. (2009). What are the political parameters? In R. Hall (ed.). *Another countryside: Policy options for land and agrarian reform in South Africa*. Bellville: Institute for Poverty, Land and Agrarian Studies, University of the Western Cape.
43. Kepe, T., and Hall, R. (2016). Land redistribution. *Commissioned report for High Level Panel on the assessment of key legislation and the acceleration of fundamental change, an initiative of the Parliament of South Africa*. Cape Town: Parliament, Republic of South Africa.

44. Lahiff, E. (2007). 'Willing buyer, willing seller': South Africa's failed experiment in market-led agrarian reform. *Third World Quarterly*, Vol. 28, No. 8, pp. 1577-159.
45. Li, T.M. (2010). To make live or let die? Rural dispossession and the protection of surplus populations. *Antipode*, Vol. 41, Issue 1, 66-93.
46. Mkentane, L. (2021). Eviction of black farmers raises questions about readiness for land reform. *Business Day*: 23 March 2021.
47. Mtero, F., Gumede, N., and Ramantsima, K. (2019). *Elite Capture in land redistribution in South Africa*. Bellville: Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape.
48. Narsiah, S. (2007). Alternatives to neoliberal governmentality in South Africa. *South African Geographical Journal*, Vol. 89, Issue 1, 34-43.
49. Neves, D. (2020). *Thematic study Agricultural value chains in South Africa and the implications for employment-intensive land reform*. GTAC/CBPEP/EU project on employment-intensive rural land reform in South Africa: policies, programmes and capacities, 31 March 2020.
50. Ntsebeza, L. (2007). Land redistribution in South Africa: The property clause revisited. In Ntsebeza, L., and Hall, R. (eds.). *The land question in South Africa: The challenge of transformation and redistribution* (pp. 107-131). Cape Town: HSRC Press.
51. Olver, C. (2019). *Rents and repurposing in two South African Cities: Towards a typology of city governance regimes*. Johannesburg: Public Affairs Research Institute (PARI).
52. Presidential Advisory Panel (PAP). (2019). *Final Report of the Presidential Advisory Panel on Land Reform and Agriculture*. Pretoria: Republic of South Africa
53. Pienaar, J.M. (2014). *Land reform*. Cape Town: Juta and Company.
54. PLAAS. (2020a). *National policy for beneficiary selection and land allocation*. Submission to the Department of Rural Development and Land Reform. Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape.
55. PLAAS. (2020b). *Inclusive dialogue on broadening access to land for a pro-poor, equitable land reform*. Workshop Report. Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape (UWC), Lagoon Hotel and Conference Centre, Cape Town 30 November -2 December 2020.
56. Ramantsima, K. (2020). Government promise that '700,000ha of state land will be redistributed' raises more questions than answers. *Daily Maverick*, 18 October 2020.
57. Ribot, J.C and Peluso, N.L. (2003). A theory of access. *Rural Sociology*, Vol. 68, No. 2, 153-181.
58. Scully, B., and Britwum, A.O. (2019). Labour reserves and surplus populations: Northern Ghana and the Eastern Cape of South Africa. *Journal of Agrarian Change*, Vol. 19, Issue 3, 407-426.
59. Strauss, M., and Liebenberg, S. (2014). Contested spaces: Housing rights and evictions law in post-apartheid South Africa. *Planning Theory*, Vol. 13, No. 4, 428-448.
60. Tleane, L.C. (2018). South Africa's 'Radical Economic Transformation'. *Monthly Review*, Vol. 70, No. 4, 11-21.
61. van Koppen, B., Sally, H., Aliber, A., Cousins, B., and Tapela, B. (2009). *Water resources management, rural redress and agrarian reform*. Pretoria: Development Bank of Southern Africa (DBSA), Working Paper No. 7.
62. Vink, N. and Kirsten, J. 2019. *Principles and Practice for successful farmland redistribution in South Africa*. Bellville: Institute for Poverty, Land and Agrarian Studies, University of the Western Cape, Working Paper No. 57
63. Walker, C. (2003). Piety in the sky? Gender policy and land reform in South Africa. *Journal of Agrarian Change*, Vol. 3, No. 1-2, 113-148.
64. Western Cape High Court. (2020). *Adonisi and Others v Minister for Transport and Public Works Western Cape and Others; Minister of Human Settlements and Others v Premier of the Western Cape Province and Others*. Western Cape High Court, Cape Town: South Africa, 13 August 2020.
65. White, B., Borrás, S. M., and Hall, R. 2014. Land Reform in Currie-Alder, B., Kanbur, R., Malone, D.M., Medhora, R. (eds.), *International Development: Ideas, Experience, and Prospects* (pp. 479-494). Oxford: Oxford University Press.
66. World Bank. (2018). *Overcoming poverty and inequality in South Africa: An assessment of drivers, constraints and opportunities*. Washington DC: World Bank Group.



Institute for Poverty, Land and Agrarian Studies  
School of Government  
University of the Western Cape  
Private Bag X17 Bellville 7535 Cape Town South Africa  
Tel: +27 021 959 3733 Fax: +27 021 959 3732  
[www.plaas.org.za](http://www.plaas.org.za)