



Principles and practice for successful farmland redistribution in South Africa

WORKING

Paper 57

A keynote paper presented at a two-day national conversation on:

Resolving the Land Question: Land redistribution for equitable access to land in South Africa

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ABSTRACT

The current debate on land reform in South Africa is unnecessarily polarised between those who believe that the market has failed to deliver, and those who believe that the bureaucracy has failed to deliver. Instead, we propose a 'state-incentivised but private sector-delivered' land reform that has a first 'fast-track' phase of a decade in which rapid land transfer is effected by a joint effort between the state and private actors. This calls for the creation of a virtual land depository and a Land Reform Fund where the private sector provides the bulk of the land and the funds, and these two actors partner with land reform beneficiaries and commercial farmers to create a support environment that allows new farmers the opportunity to establish themselves successfully in the agricultural sector.

Keywords: Land redistribution; National Development Plan; Joint Ventures; Agriculture; South Africa

ACRONYMS AND ABBREVIATIONS

| | |
|-------|---|
| CASP | Comprehensive Agricultural Support Programme |
| DPME | Department of Planning, Monitoring and Evaluation |
| DRDLR | Department of Rural Development and Land Reform |
| JVs | Joint Ventures |
| LMC | Land Management Committee |
| LRAD | Land Redistribution for Agricultural Development |
| NDP | National Development Plan |
| SOE | State-owned Enterprise |

PREAMBLE

This paper forms the basis of a keynote presentation to the PLAAS Conference on *Resolving the Land Question: Land redistribution for equitable access to land in South Africa*, held in Cape Town on 4 and 5 February 2019. The terms of reference were to focus on agricultural land redistribution, and in the process to address five questions, namely:

- How should land for redistribution be identified, acquired and transferred?
- Who should benefit from land redistribution in rural South Africa?
- What kinds of rights should beneficiaries hold on redistributed land?
- What kinds of support should be provided to beneficiaries?
- What are the desired outcomes of such redistribution?

In the paper, we first discuss three problems that we have with the current public debate on land reform (Section 1), and then discuss some aspects related to the implementation of land reform. The five questions are then addressed *seriatim* in sections 3-7. Section 8 concludes.

1. INTRODUCTION

Land reform is a broad social challenge that requires the commitment of every South African to ensure the sustainability and prosperity of an inclusive South African economy. Unfortunately, land reform in South Africa has proven to be a long and complex process that demands large inputs of time, skills and money, and has uncertain outcomes. After 24 years of land reform, it is not possible to conclude in any definitive way whether land reform has actually benefited our economy or society. For every new urban and peri-urban settlement, and for every community and individual who have had the heritage that they lost through discriminatory laws and practices restored, there is a 'failed' farming project or a small farmer still stuck in a remote area without hope of gaining a livelihood. Sometimes these successes and failures can be seen on the same project. And because agriculture depends on the rhythms and cycles of nature, premature conclusions of success or failure are just that: premature.

The result is that there are many opinions on what has gone wrong with land reform, and on what should be done about it. Yet there is one opinion that is shared by all, namely that the social fabric of the country and its economy are in danger unless a broad consensus can be reached on the way forward. Land may not play as strong an economic role as it did in the past, but its central place in the history of dispossession, and hence in the manifold inequalities of our country cannot be denied.

In this regard, we have always argued that there are three very important building blocks that need to be accounted for when laying the foundations for land redistribution in South Africa. These are the Constitution, the supporting environment within which land reform takes place, and the importance of addressing access to land under our specific circumstances.

1.1 The Constitution

The South African Constitution charges the government of the day with the responsibility of implementing land reform. It does not request the government to do so, nor does it merely allow it: it says very explicitly that the government has to implement land reform, and that it has to be done in the form of restitution, redistribution and tenure reform. Land reform must take place, and it must be done in the form of these three programmes. How this is to be done is the responsibility of the government of the day.

In this regard, there seems to be consensus that the actual implementation of land reform over the past quarter-century has been unsuccessful, even though we know (or should know) that agriculture is a multi-generational enterprise, and 25 years is too short a time horizon. This is especially true in South Africa, with its relatively poor agricultural resources, and its history of segregation, of suppression of black farmers and of support to white farmers. Even in the case of the latter, farmer settlement such as the irrigation schemes implemented to allay the 'poor white' problem, or to afford opportunities to soldiers returning from WWII took generations to stabilise and take their rightful place in production for the

market. Furthermore, there is a lack of clarity on what exactly are the objectives of land reform: how then do we know whether it has been successful or not?

1.2 Farmer support

There is also by now consensus that, while necessary, access to land is not a sufficient condition for land reform: farmers need other kinds of support. Unfortunately, there also seems to be consensus that ex-post provision of support is in itself sufficient. This is not the case, and cannot ever be the case. Farmer support is many-faceted, and includes a stable political, social and investment climate, the rights (and the necessary legal backing for those rights) to do what farmers believe necessary to do within the confines of social and environmental norms, the physical infrastructure required of a spatially dispersed industry for access to input supplies and to markets, and direct and indirect support to specific industries and enterprises. When ex-post support is planned, it invariably consists of direct subsidies (government will pay for your fencing, or provide a tractor service, etc.) This presents the danger of creating dependency and a sense of entitlement, and is fiscally unsustainable. If rural land redistribution is to be mainly about farming, then government needs to reorganise itself to create a more coherent and functional support base for these farmers. The main elements of farmer support have to be more tightly coordinated.

1.3 Access to land

The current debate on land access is bifurcated between administrative and market-based land access mechanisms. Some would have it that the state should own all the land (i.e. first expropriate it from the current owners, with some arguing against any form of compensation and some in favour) and then allocate it to the appropriate users. International experience with land reform is often called in to substantiate either of these options, and to argue for the creation of more small farms, or the retention of commercial farms at their current size. Unfortunately, the most important lesson that we can learn from international experience is hardly ever raised, namely that over-hasty land reform always ends in a disaster, and that the supposed beneficiaries always lose the most, whether small farms are being consolidated, or large farms are being broken up. In this regard, we note that optimal farm size is a highly problematic concept¹, more so in South Africa with its particular geography and history. Organic change in farm size, whether from large to small farms, or from small to large, where local factors can be taken into account, is the only real solution, and organic growth cannot and should not be unduly hastened.

The current debate would have it that market-based land access has been tried, that it did not work, and should therefore be rejected as an option. There is little doubt that what has been tried has not worked, but this does not mean that we should throw the baby out with the bath water. It is clear that what has been tried has been based on two false assumptions. First, the grants made available for land access have been too small. Second, potential land redistribution participants either had to pool their grants, leading to administrative interference, or they had to borrow to supplement the grant – or do both. To coin a phrase: nobody ever got out of poverty by getting into debt. In addition, these processes have proven to be *highly vulnerable to corruption*².

¹ It is difficult to make sense of the debate on farm size and efficiency, but there are two points of consensus in the literature. First, the best managers (whether self-employed or working for others) tend to have larger farms than the weaker managers. Second, farms get bigger when there is a functioning market for alternative job opportunities. In other words, when a good manager can earn more off-farm, average farm size will decline. On the efficiency debate, there is a lot of evidence that shows that smaller farms can produce larger yields than larger farms (i.e. land use efficiency is higher). Unfortunately, this is invariably because they use too much labour (in the absence of a functioning off-farm labour market), hence they also have lower labour productivity. The jury is still out on total factor productivity because of measurement problems (see Rada and Fuglie, 2019), but it is clear that the most efficient farm size is context specific, and that agricultural policies can influence farm size, driving farms bigger (as in the USA) or smaller (as in much of Europe). Agricultural technicians dream of an 'optimal' farm size: Agricultural Economists know that this is a chimera.

² The level of corruption in the land redistribution process is well articulated in the March 2018 report of the Special Investigation Unit submitted to the President. This was never in the public domain until details of it were published by the *Business Day* on 24 January 2019. This report also confirms some of the evidence that emerged from the authors' personal investigations and field work implemented as part of the University of Pretoria's evaluation reports on LRAD (Kirsten and Machete 2005) and RCAP (BE@UP, 2013) and CASP (BE@UP, 2015).

Was the initial land reform process really following a market-assisted approach?

It is rather obvious that in a situation of extreme inequality there is no way the market can be used as the instrument for redistribution. However, international experience has also shown that the State is just as bad in redistributing land due to corruption, patronage and bureaucratic delays. So, neither the market nor the State can do the job.

The solution is then to find a compromise and use the mechanisms of State support (finance, skills, legislation) to support decentralised and individual transactions to assist beneficiaries to obtain land according to their own specific needs, requirements and aspirations. The proposals in the 1990s were never left to the market alone but developed with an important role for the State as facilitator and enabler.

The market-assisted process designed and implemented in the 1990s/2000s however, failed because, despite the decentralised and transaction-based approach, the process was controlled by the State through the release of grants and identification of beneficiaries. The bureaucrats exercised control and approval of every step in the process resulting in long delays, which caused the individual transactions of land transfer to collapse. This – and nothing else – was the main reason for the slow delivery of land to beneficiaries.

The land reform programme implemented in South Africa has thus never implemented the market-assisted approach and its principles.

When alternatives are discussed, the debate regresses into the administrative processes described above: if people cannot buy the land, then give it to them. Yet the South African financial sector, mostly in collaboration with government, has designed and implemented myriads of ways of making it possible to acquire land even for those without the means. We need to focus on these options.

In our proposal detailed below, we argue strongly for a minimal role of the state in the land reform process and that it rather uses incentives with *minimal fiscal costs* to incentivise the current landowners and the private sector to deliver on the land reform mandate within the context of some key deliverables and clearly specified outcomes.

2. IMPLEMENTING LAND REDISTRIBUTION: THE NDP

As a result, we believe that a fast-track process, based on principles highlighted in Chapter 6 of the National Development Plan (NDP), is necessary to kick-start the longer-term land redistribution that is required. The purpose will be to show that land reform will happen, to demonstrate to the investor community that it can be done with minimal negative effect on the economy, and to afford those most privileged by past injustices an opportunity to contribute regardless of whether they have any direct production or investment interest in land. What we propose is the creation of opportunities for inclusive participation from all sectors of the economy in the process of redistributive justice. South Africans, specifically the most fortunate ones, should ask themselves what contribution they can make to help restore the dignity of their less privileged fellow citizens and to help secure a more just distribution of land ownership. We specifically target current land and property owners in urban and rural areas, commercial farmers, agribusinesses throughout the value chain and those whose wealth lies in other assets.

As stated, these proposals are based upon the land reform policy contained in the National Development Plan 2030. Here the objective was to spell out ways in which the government would create employment in agriculture in the form of 1 million jobs. To this end, the NDP proposed a three-part plan:

- a. Roughly one-third of these new opportunities would result from the implementation of a comprehensive farmer support programme targeted at the communal areas of the country. There would be no direct interference in the scale of farming, but opportunities would be created for those who wished to farm, whether for own consumption or for the market. These opportunities

would arise from the better provision of physical, social and institutional infrastructure, and rural dwellers would be afforded better protection of their property rights in land in the process. The NDP acknowledges what has already been done in many parts of rural South Africa by the Department of Rural Development and Land Reform (DRDLR), but emphasises the scale of what still needs to be done in order to give effect to the Constitutional imperative to provide tenure security to almost 40 percent of South Africa's population who live in these areas with extremely high unemployment rates.

- b. The creation of a further third of a million livelihood opportunities in farming and other rural enterprise opportunities in the commercial farming areas of South Africa³ through the land redistribution programme. To this end, a decentralised administrative process is envisaged, starting with the creation of District or Local Land Management Committees (LMCs). These will include all interested parties as members – in no particular order, the Land Bank and the commercial banks, representatives of organised agriculture across the spectrum of farmer types (i.e. small scale, commercial at all scales, etc.), suppliers of farming requisites, non-governmental organisations, *with relevant government department(s) as the secretariat*. These Land Management Committees will be invested with statutory powers but they will not be controlled and managed by government officials. They will merely perform secretarial duties and ensure that incentives are directed to those farms earmarked and redistributed by the committee. The government agencies will ensure speedy registration of transactions, title deeds and coordination of government support as per the revised support system discussed below.

The **first task** in the 'fast-track' part of their responsibilities is to craft a vision for agriculture for their area of jurisdiction: if they envisage only small farmers, or only small-scale commercial farmers, or the retention of current commercial farmers, or any combination of these, they should be able to do so. Once this has been done, the **second task** is the identification of at least 20 percent of the land in their area of jurisdiction for land redistribution. Details of how this land is to be acquired are provided below, as the NDP was relatively silent on this issue. The **third task** is to ensure that the necessary elements of a comprehensive farmer support system are put in place. Here one must emphasise that the Land Management Committee does not have jurisdiction over most farmer support elements, and that land reform cannot wait until a 'perfect' farmer support system is in place. Given that input suppliers and agribusiness will also be represented on these committees they could play an important role in providing the support systems without any delay or bureaucratic process. Hence, this becomes a monitoring and advocacy role. **Fourth**, they must put mechanisms in place to provide access to land to previously disadvantaged farmers.

The general approach to ensuring access to land is that the Land Management Committee will initiate projects that support their stated vision for farming and other rural livelihood opportunities in their area on land identified for land reform. Projects can of course cover the entire spectrum, from small-scale 'subsistence' farming (e.g. in a District or Local Municipality where 'communal' farmers dominate and no radical change is envisaged) to commercial farming on a spectrum of farm sizes (e.g. in a district such as Stellenbosch or Durbanville where a commercial farm can range from a boutique winery of 5 hectares to a mixed field crop/horticulture operation of a thousand hectares or more). These contractual opportunities will then be advertised so that prospective beneficiaries can decide where to apply⁴. The qualifying criteria for the applicants are stated up-front in the advertisement, and the successful applicants are given the opportunity to build their farming and other skills for an initial period of three years, when they receive operational and working capital free of charge, whether through a state subsidy or from a commercial farming partner (see below). After the initial period a rigorous performance appraisal is done. If the beneficiaries can show that further investment in their livelihood is conducive to society as a whole (as opposed, for example, to investment in

³ South Africa has around 95 million hectares of farming land. Two-thirds of this is arid and semi-arid and cannot be ploughed. Around 18 percent is under communal ownership and the rest (around 77 million hectares) is commercial farmland (with freehold tenure), of which 66.5 million hectares is owned by white commercial farmers. The rest of the farming land is under some form of land reform, restitution or private ownership by black farmers (See Annexure 1). The physical potential of one hectare of land in the communal areas is roughly the same as that of a hectare in the freehold areas.

⁴ The projects can also be free-standing farms for an individual beneficiary, public-private partnerships with an existing commercial farmer, etc. - even group farming if this is in accord with the vision of the local committee. The principle is that experimentation will result in a better idea of what works in different circumstances in South Africa.

someone else) they enter the next phase. The second phase is a contract for a four-year period in which they progressively become responsible for all of the costs of production (e.g. for 25 percent in the first year, 50 percent in the second, and so on). They also continue to receive support from mentors, extension agents, etc. as the case may be. This phase is followed by a final assessment of the suitability of the new operator, and after this point they are free to work for their own account. Whether they then receive freehold title to the land would be dependent on the contractual terms upon which they signed up, i.e. on the vision for agriculture for that District or Local Land Management Committee.

It is important to understand that the purpose of this process is not to impose a single vision of land reform across the entire country, even though the outcome has to reflect the Constitutional imperatives of redress, tenure security and equality of opportunity. The main strength of such a decentralised process is the opportunity to experiment, and to lay the foundations for longer-term processes of rural transformation. However, it is also important to acknowledge the two central weaknesses of decentralisation in our circumstances, namely that the poorest people in South Africa live in the weakest Local Authority areas, and that administrative processes such as those envisaged here are ripe for exploitation by the corrupt. To this end, a strong role is envisaged for the Department of Planning, Monitoring and Evaluation (DPME) in monitoring and auditing the envisaged processes.

- c. The third component of the employment creation mandate of the NDP is the creation of another third of a million livelihood opportunities in the upstream and downstream agribusiness sectors that either supply farmers and other rural dwellers with inputs, or take their produce from the farm to the market, usually with some form of beneficiation.

In the rest of this paper, we build on the NDP in two ways: we propose a 'fast-track' process that will last for the next decade, allowing time to institutionalise the NDP proposals. We provide more details of the key elements of the NDP proposals in order to properly address the five questions under consideration at this Land Redistribution Conference. In this regard, there are two key institutional components to this fast-track process, namely a virtual 'land depository' and a Land Reform Fund to which those with the interest, expertise, and wealth can contribute, and from which those with the need can draw. The focus of these institutions is on the provision of land for human settlement, primarily but not exclusively in the urban areas of our country, and the provision of land for agriculture with the aim of creating economic opportunities, primarily but not exclusively in the rural areas of our country. In the language of our Constitution, therefore, the focus will be on land redistribution rather than on restitution and tenure reform.

The 'fast-track' approach discussed in this paper is proposed as a mechanism to avail land for the NDP process explained above.

3. HOW SHOULD LAND BE IDENTIFIED, ACQUIRED AND TRANSFERRED?

The 'fast-track' process includes a mechanism whereby land is identified and transferred quickly through normal market transactions (perhaps below market value), elements of expropriation where clearly identified and voluntary donations. All of this can be realised through a substantive land reform fund that assists beneficiaries with land acquisition (if needed) and bridging finance as well as seasonal production loans. At the same time this land reform fund will be available to benefactors (agribusiness, commercial farmers) to support their remaining business as they make land available and settle beneficiaries in joint ventures or independent farmers. It is also important that the approach does not ignore spatial and agroecological dimensions as well as the diverse needs of beneficiaries. The sections to follow discuss the details.

3.1 The land depository

The land depository is merely a place for recording transactions, but it could also accept land for redistribution. This could also be regarded as a land observatory whereby the true extent of redistribution of land can be assessed.

The land question is not only an agricultural land problem, but it also relates to urban and peri-urban land. What we propose here is a way of dealing with the land question in an integrated and all-encompassing way. *So where should the land come from to help solve this fundamental question confronting post-apartheid South Africa?* As an immediate and very quick start (the 'low-hanging fruit') that could potentially make available around 9 million hectares of prime agricultural land, there are three main sources of land, as listed below:

a. Within the ambit of the State

- Land owned by State Owned Entities (SOEs)
- Land owned by government departments
- Municipal land and commonages
- Land reform farms in distress
- Land already acquired by the State for land reform purposes

b. Available for expropriation

- Farms in severe financial distress
- Absentee landlords
- Debt amnesty for farms unutilised but indebted due to unpaid taxes
- Abandoned and unutilised land
- Distressed farms indebted to the Land Bank

c. Donations by private owners of land (or joint ventures, incubators, etc.)

- Churches
- Mining houses
- Commercial farmers
- Agribusinesses
- Foreign landowners
- Urban landlords
- Contested land around the fringes of towns and cities

In order to upscale the idea of voluntary donations to be really meaningful we will have to incentivise the private owners (through the mechanisms discussed below) to increase their own redistributive efforts through joint ventures and other models to another 12 million hectares (in addition to the 9 million mentioned above). With this approach, we could very quickly move a total of 40% of the 77 million ha to black South Africans.

The fundamental premise of our proposal is that these private landowners will be called upon to either donate land voluntarily, give up some of their time and expertise to mentor new entrants to farming, invest in land reform bonds, or to contribute some combination of these, as the case may be. So, for example, where the State pays for land, the seller still has the opportunity to contribute in other ways. An inventory of this land will be maintained on behalf of the land reform programme, but the land title itself will only be transferred directly to the beneficiaries under the appropriate conditions, because the organs of the State have proven to be both inefficient and often corrupt landlords. The design of the conditions under which land is to be transferred to beneficiaries could be developed by the local Land Management Committees, as envisaged in the NDP or by own design where landowners are developing joint ventures and own initiatives to settle beneficiaries. In these cases the land depository will also register these transactions and monitor its progress and verify the true nature of its reform attributes.

The idea to redistribute land owned by SOEs (under category #1) to beneficiaries for housing or agricultural purposes has recently suffered somewhat of a blow through a specific clause (Clause 2 (2)) in the Draft Expropriation Bill 2019 that was published for comment on 21 December 2018. The clause states the following:

Despite the provisions of any law to the contrary, an expropriating authority may not expropriate the property of a state-owned corporation or a state-owned entity without the concurrence of the executive authority responsible for that corporation or entity.

In plain language, it means that land belonging, for example, to Transnet can only be expropriated once the Minister of Transport has approved. However, this faces two constraints. First, Cabinet Ministers and

senior civil servants are not known for giving up anything, including unused and vacant land. Second, most SOEs have a weak balance sheet, and they are therefore unlikely to release such land for housing or farming purposes. The matter becomes more complicated, and more politicised, when the political control of the relevant local authority differs from the political party controlling the executing authority (du Plessis, 2019). It is therefore critical that this potential constraint to the ‘donation’ or ‘expropriation’ of land from state-owned entities and government departments be addressed before the Bill becomes law. At the minimum there should be time limits introduced for the ‘executive authority’ to give its permission.

3.2 The Land Reform Fund

The second of the fast-track land reform institutions is the Land Reform Fund, whose sources of capital will include:

- Land Reform Bonds issued by the Land Bank with the necessary state guarantees. Investments into these bonds will be by domestic and foreign investors, multilateral and bilateral donors and private social investment entities.
- Donations by companies, private individuals, international donors.
- Government grant contribution (Comprehensive Agricultural Support Programme (CASP), land reform funds).
- Joint venture financing models, particularly implemented by agribusinesses, large commercial farmers, property developers and the commercial banks, amongst others. The agribusinesses and commercial banks, through the Agricultural Business Chamber and the Banking Association of South Africa, have already committed to matching the State’s budget for land reform in the interest of fast-tracking the progress in the form of a loan at a preferential rate over a set period.

These sources of funding (most of it provided below long-term bond rates or not interest bearing at all) should allow the Land Bank to provide finance to beneficiaries (and commercial farmers donating land) at subsidised interest rates and beneficial terms such as deferred repayments or deferred interest payments. For example, banks in South Africa lend money against urban residential mortgages for a period of no longer than 20 years. In agriculture, neither the Land Bank nor the commercial banks are eager to lend for longer than 10 years. On the other hand, the Land Bank and the Agricultural Credit Board gave mortgages of up to 40 years under the old regime (and for up to 65 years in the original irrigation settlements). Couple this with interest rate subsidies and the phasing in of provisions of the NDP as explained earlier, and a whole lot more people could afford access to land for farming purposes and could access bridging finance and seasonal finance at affordable rates of around 2.5%, given that cost of capital would only be around 1.1%⁵.

Suggested composition of Land Reform Fund:

| | |
|--------------------|---|
| R10 billion | Land Bank bills and notes (@9.59%) * |
| R10 billion | Government grant contribution |
| R50 billion | Private donations |
| R14 billion | International donor contributions (\$1 billion) |
| R84 billion | Total revolving fund (at weighted average cost of capital of 1.1%) |

Note: * This is in addition to the existing Land Bank funding mix of R41 billion.

Above all, this Fund provides a unique opportunity for South Africans to build social and financial capital by creating an investment opportunity for individual and corporate capital market participants to make a meaningful contribution to land reform. This scenario decentralises the land reform process by leveraging private sector expertise and capital and stands in support of the government’s intention to create jobs and boost investor confidence in the country.

While the housing and agricultural sectors are at the forefront of land reform, the capital required for such a programme far outstrips the capacity of these sectors. Hence, opportunities will be created for other

⁵ On this issue, see section 4.

investors to contribute to the challenge of restoring social justice, equitable land ownership, decent housing, and equitable economic opportunities. White farmers were not the only white people who benefited from the old regime, and most of the beneficiaries of apartheid live in urban areas. Therefore, this also includes a call for voluntary financial donations from the financial services industry, the mining and manufacturing, and other non-agricultural sectors. This is specifically relevant to businesses that do not own any landed property.

The end game of this process is to unlock economic growth and employment opportunities and to create a vision of a dynamic and vibrant rural economy, to restore decent life and economic opportunities in the urban areas created through a better-serviced local community and much more integrated and improved spatial dispensation of urban areas.

3.3 Mechanisms for availing land for redistribution

The process is one where every South African can buy into land reform, as a conscientious contributor, or a responsible recipient. The options that can be followed are diverse and can be tailor-made for each person's unique circumstances, but most importantly, the State will implement mechanisms where all contributions to this critical 'restoration' process are directly or indirectly incentivised, whether in financial terms or in kind, e.g. in terms of empowerment and other incentives.

3.3.1 Option 1⁶

This option proposes the voluntary release of land (by mines, churches, municipalities, SOEs, government departments or absentee landlords) directly to beneficiary households, communities or to the 'depository'. The 'depository' will keep a proper record of all these land parcels and provide a certificate for recognition to the donor. This certificate will entitle the holder to certain benefits such as procurement preferences, or a wide range of preferential financial arrangements, etc. This entity will (in collaboration with communities, local farmers' associations, financiers, commodity organisations, etc.) allocate the land to beneficiaries using the District Land Committees envisaged in the NDP. A key issue will be the ability to sub-divide land with great speed and ease but with great responsibility. For this, the impediments created by the Subdivision of Agricultural Land Act (Act 70 of 1970) should be addressed as a matter of urgency⁷. In addition, the potential impediments introduced by the Expropriation Bill, discussed earlier, should also be scrapped before the Bill is passed.

At the same time, some fundamental principles for beneficiary selection should be in place (see our discussion later), and support systems through agribusinesses, commercial farmers, mining companies, and churches, etc. should be instrumental in operationalising these newly-established farming enterprises or housing developments. The financial contribution to kick-start this process will come via the Land Reform Fund. These financial arrangements should happen on preferential terms (such as deferred interest payments and subsidised interest – as illustrated earlier). In addition, a state guarantee for these on-lent funds could act as collateral to ease the access to finance for new farmers.

Agribusinesses (in some cases in cooperation with provincial governments) could also play a role by 'donating' time and skills for training and assisting new farmers on farmland released through this process. The success of the new farmers would be in the agribusinesses' best interest because they will be potential clients, especially in terms of the NDP's promotion of farming development that prioritises labour-intensive crops that are also seeing a growing demand in the global market.

3.3.2 Option 2

For commercial farming operators there could also be an opportunity to contribute or donate land in a number of ways:

- Donating land without any ties attached as in option 1.
- Subdividing land and allocating viable portions of land to workers (for farming or housing), tenants and potential beneficiaries. Again, ease of subdivision is key and efficient and quick registration of new owners should be possible.

⁶ Note that these are not alternatives.

⁷ See also section 3.4.

- Joint ventures with privately identified beneficiaries (according to the criteria established by the panel). These joint ventures could access subsidised capital, water rights, market contracts, etc. At the same time, agribusiness should provide well-integrated support services for these new entrants.

This second option largely operationalises the opportunity for commercial farming unions to offer land for the land reform programme in a pro-active manner and could happen, if so preferred, without the assistance of the local land management committees. The commercial farming sector should create a process whereby well-located farmland is identified and committed for land reform, beneficiaries selected, and finance, mentorship and support put in place, as envisaged in the NDP. Commercial farmers who participate in this manner should also receive a certificate of recognition whereby their contribution is recorded and recognised.

Incentives should be created for participation. Guarantees regarding future tenure security for contributing farmers will go a long way in attracting larger numbers of commercial farmers to participate⁸.

Experience has shown that when the state bureaucracy takes the lead in land reform, corruption results, and we now know that there is far more corruption in the South African land reform programme than most people suspected. Yet when the private sector (in the form of commercial farmers and agribusinesses) takes the lead there is the danger of a bias towards large-scale commercial farms, and worse, of elite capture. The two are, of course, connected. However, the proposed broad representation on the District or Municipal Land Management Committees and the strong monitoring and auditing role envisaged for the DPME should create important checks and balances to counter these inherent weaknesses.

3.3.3 Financial assets

The personal wealth of the elite, including business leaders and urban professionals, etc. vests in various financial assets and is substantial. This could be a valuable source from which voluntary contributions can be requested to fund the implementation of land reform in all its dimensions. Donations to the Land Reform Fund by individuals or asset managers should also be incentivised through incentives such as relief from tax. We expect however, that the main vehicle for such investments will be the envisaged land reform bonds. There is already considerable international interest in investing in such bonds with the understanding that the National Treasury will issue the necessary guarantees.

The creation of the Land Reform Fund should be a simple process whereby government funds, capital raised through the land reform bonds, and donor funds could be merged into a fund, which should be accessed with ease by implementing agents and beneficiaries of land reform. It will be the main element of a blended financing model for land reform whereby state funds, donor funds and the private sector will facilitate the funding of land reform in a much quicker and cheaper way without any additional fiscal burden. As we showed in the text box, earlier, it is possible to blend all these funds and thereby reduce the cost of capital to a mere 1,1% which should allow the fund to on-lend to beneficiaries and benefactors at less than 3%.

3.3.4 Enablers

This plan relies strongly on the voluntary contribution of all South Africans to the goal of equitable land ownership. To make this work *at scale and quickly*, there should be some form of *quid pro quo* or alternatively a list of enablers that will entice participation. A potential list of enablers includes:

- capital (to be accessed at preferential terms for contributors and beneficiaries)
- real land rights with tenure security
- water rights
- preferential market access contracts (e.g. in the form of export permits)
- reduced reliance on bureaucracy and red tape in approval and implementation processes.

⁸ See Section 3.3.4 on 'enablers'.

This list could potentially include more enablers, but we argue that there could, in essence, be six **big 'tickets'** to activate the voluntary contribution of land by commercial farmers and support the settlement of beneficiaries on this land in a private decentralised fashion:

- a. An easy process and one-stop shop to submit the record of the transaction for recognition (we can call this the 'land reform rainbow register').
- b. The recognition mechanism should bring about an important benefit to the former owner. This could be in the form of some 'empowerment' recognition level or financial or other inducement. The recent decision about 'once empowered, always empowered' might be a particularly important commercial incentive for current farmers and owners of land to participate in. At certain thresholds (still to be determined), either cash or quantity, the property and its owners might be deemed fully empowered. This status remains *with the property* as an enhancement and has significant commercial value. In attaching the status to the property, it becomes generally applicable so would pass constitutional scrutiny and would most probably be value enhancing.
- c. The speedy transfer of title deeds/long-term and tradable leases to beneficiaries of land reform, including those who occupy land already procured for land reform purposes.
- d. The allocation of new water rights (or water released by existing farmers through efficiency gains) to the existing and new enterprises (owned by the beneficiary). This will again allow the existing farmer to dispose of land and at the same time ensure the successful establishment of smaller farms on irrigated land. Officials in the Department of Water Affairs and Sanitation have been major stumbling blocks in allowing transfer of water rights to beneficiaries.
- e. Restructuring of the Land Bank and establishment of a Land Reform Fund where acquisition grants, subsidised loans and subsidies for on-farm improvements can be accessed. Access to the Land Reform Fund can be used to leverage the donation of land by existing owners. This capital (at preferential and subsidised terms) allows farmers to dispose of land for land reform purposes but at the same time provides them with finance to expand their existing business and employ more workers⁹.
- f. Adaptation to the process of subdividing land and a number of administrative processes as discussed in section 3.4 below, could also act as useful enablers.

⁹ For many farmers the donation of land could potentially have a negative impact on the finances of current farming operations and could ultimately lead to insolvency. In some cases, the current scale of operation is just enough to secure sufficient returns to ensure a full-time livelihood for the owner and his/her family and the workers and their families. Taking land out of such a tightly balanced situation might compromise the financial and environmental sustainability of the operation. To compensate for the release of land and the potential livelihood and financial disruptions, access to subsidised capital and other benefits and non-budgetary incentives might be an important safety-net mechanism.

Selected case studies where our proposed model has been implemented:

A: Sugarcane in Mpumalanga

A total of 33 384 ha of cane in the Nkomazi region was transferred to black beneficiaries, representing 67% of the area under cane in the region. A total of 20 500 ha (62%) represents land claims and a further 9 200 ha (27%) small-scale growers.

The agribusiness company in question and many independent commercial (white) farmers made the land available for redistribution and restitution. The farms were transferred to communities and independent black farmers without any working capital. However, in order to secure a steady and reliable supply of cane, joint ventures (JVs) were formed between the company and individual farmers. The main elements of the JVs are:

- a. Community trusts own the land.
- b. Land is rented to an operating company JV, with each of the land claimants and the company owning half of the shares.
- c. Community sold the standing cane to JVs (sugarcane is a multi-year crop).
- d. Working capital was funded by a special purpose JV. The beneficiaries are represented on the Board of Directors and sit on credit committees. The communities also invested their own capital at their own risk in the fund, which also sources funds from wholesale Development Finance Institutions (DFIs) (Land Bank, IDC), donors and own funds and retails those funds to clients. One farmers' group invested R5 million in the fund and has already received R8 million in dividends.
- e. The company manages the JVs and provides support services.
- f. The JVs lease land from claimants and benefits flow through to the communities.
- g. Claimants and the community also gain economic benefits linked to enterprise development.

The combined institutional structure of operation, support, finance, irrigation infrastructure, and secure market access has contributed to sustainable land reform with an estimated R2.3 billion being injected into the Nkomazi regional economy since inception.

B: The Witzenberg PALS Initiative

Witzenberg PALS was established in an agreement between the Witzenberg commercial producers, the Witzenberg Local Municipality and the community in order to expedite land reform. The PALS framework represents a radical departure from past land reform in South Africa, and has the following main features:

- a. Participant commercial farmers set up JVs with individual farmers or groups. They then donate 30% of the shares in the JV to the beneficiary farmer(s) to ensure that the latter have a veto over all major decisions.
- b. The relationship between the beneficiary and the partner farmer gives the former better access to finance, and guarantees access to markets.
- c. The beneficiary farmer is indemnified from debts of the new venture while being a minority shareholder.
- d. A Worker Trust is set up, and receives a percentage of profits for community projects of their choice.
- e. The beneficiaries have an option to purchase all the shares from the start.
- f. The 'one stop shop', financed by the Witzenberg Initiative, provides a physical location where the coordination, facilitation, mentoring and training functions can be executed.

Two PALS projects were successfully implemented in 2012 on farms in the Ceres district and since then successful land transfers were initiated and concluded in a number of areas of high potential land in the Western, Southern and Eastern Cape. The principle of linking beneficiaries to agribusinesses, to securing access to high value markets and to providing technical expertise and access to water has been instrumental in the success of these newly black-owned farms in the horticultural industry. Existing landowners, communities, law firms and agribusinesses have all partnered to ensure that the transferred land is productive and sustainable. Blended finance and therefore cheaper production finance to beneficiaries has also been instrumental in achieving the high levels of success.

The PALS initiative illustrates clearly how successful land reform can take place without subsidies, and with limited state involvement. However, the reality is that this model can only be upscaled if the necessary enablers, such as state support for extension, new water rights, etc. are in place. Without that, the pace will remain slow and with only selected projects implemented through the goodwill from existing farmers.

However, the Witzenberg initiative in the Ceres Local Municipality has shown that commercial farmers are prepared to make such donations in the belief that they are providing stability and growth opportunities for farming in their areas. In this initiative, beneficiaries become part of new projects (many of them revolving around new allocations of irrigation water) where the land is donated by the commercial farmer. It has also shown how various government departments and officials have done their utmost to derail these and other private initiatives.

One should rather ask whether it is not too naïve and unrealistic to expect government officials to implement efficient processes to fast-track land reform. It is precisely because of this bureaucratic reality, inherent corrupt practices and elite capture by officials and the party faithful that led to our proposal of a process outside the systems of the State. This has been our argument since 1994 and it took 25 years to have enough evidence to prove that we were right from the beginning (see Van Zyl, Kirsten and Binswanger, 1996).

3.4 Adaptations to land administration processes and legislation¹⁰

In addition to the incentivised voluntary donation of land discussed above, access to land for the disenfranchised and disempowered communities in South Africa can also be markedly improved through small changes to land reform policy, land administration and practice, as well as the process of subdividing agricultural land. These different adaptations are discussed below and illustrate how land can very quickly be availed for farmers aiming to farm on smaller pieces of land. It just requires political will and minor legislative amendments. At the same time this is also ideal for the settlement type models that are also proposed.

3.4.1 Notarial linkages

Currently, a system of 'notarial linkages' exists that is being used in the subdivision of agricultural land. This is activated when an existing landowner applies to buy a portion or section of another property from someone else, whose property is not adjacent to that of the interested purchaser. The purchaser negotiates a price for the portion of land and then submits an application with the relevant department to have the specific section of the property subdivided. In most cases, the department does not support subdivision and for some reason does not encourage the creation of a new property with its own title. Instead, they now stipulate that they will allow the portion to be subdivided, on condition that it is notarially linked to that of the existing property of the purchaser, to prevent the creation of a new property on its own. Permission is also granted on condition that the property is in the same magisterial district. What this means in practice is that the purchaser may not deal with this 'new' property separately from that of the existing property.

There are currently thousands of these notarially-linked properties in South Africa and it is therefore proposed that DRDLR should 'delink' all those properties which have been tied together for longer than a certain period (at the discretion of the department). The use of such a time-period would prevent landowners from misusing the delinking to speculate with their property. This process would liberate previously inactive properties with title deeds without affecting the integrity of larger properties.

3.4.2 Undivided shares

There are thousands of undivided shares in agricultural land, some of which have lain dormant in deceased estates for decades. In the period preceding Act 70 of 1970 (when the Subdivision of Agricultural Land Act came into being), a deceased could provide for his/her children, or any other beneficiary to inherit his/her agricultural land and each beneficiary would inherit an undivided share. This practice however ceased when Act 70 of 1970 came into force. Undivided shares are still used in all other zoned properties, except those that are zoned as 'agricultural land'. These undivided shares are normally low in value as the shareholders normally are not aware of each other, and all improvements to the property are for the benefit of all. This has meant that the various shareholders are largely reluctant to invest in the maintenance and development of said property. These properties lie under-utilised, underdeveloped and do not contribute to the revenue of the state or previously disadvantaged farmers

¹⁰ We are grateful to Pierre-Jean Gerber, Professional Valuer and Emeritus Member of Parliament, for providing the input for this section.

who otherwise would not have the means to access agricultural land. No benefit is derived by the state, individuals, or the communities in which these properties are situated.

We propose here that the Department of Rural Development and Land Reform allows these undivided shares to be upgraded to full title in such a way that there is a mechanism created for shareholders to pinpoint and determine which portion, area, size and section of the property are theirs respectively. This principle has existed very successfully in the corporate sector, where shareholders are able to successfully guide the direction and process of a commercial entity. Such a process would be beneficial to all parties and makes good fiscal sense for all involved – the owners and the state.

3.4.3 Natural subdivisions

There are thousands of properties within our topographically disparate country that are ‘cut’ into more than one adjacent portion by natural sub-divisions. For example, national roadways such as the N1 or the N2 divide thousands of properties into more than one portion. In many cases, one or more of these sections are neglected purely because of the logistical limitations imposed by said natural subdivision. This is also evident in the manner in which railway lines divide properties throughout South Africa. These are only two examples of an extremely prevalent phenomenon in our country.

In such cases, a landowner should be allowed to qualify automatically to have the property subdivided. Again, this would activate and enhance the use of that section of land and would furthermore be consistent with the principle of making dormant and poorly utilised land accessible and a functional contributor to the national economy.

3.4.4 A single property consisting of one or more sections

There are several examples of properties where a portion of the property was subdivided and consolidated with another property. In this process, the ‘mother-property’ resultantly consists of one property, but with two sections. In such cases, these properties should automatically qualify for subdivision, as they already are subdivided for all practical purposes.

3.4.5 State Attorney as conveyancer

Until 1994, the State used its own attorney, the State Attorney, to do the conveyancing of properties that it sold to the public. This system should be returned, as it will make the transfer of property cheaper for the poor, who are often dissuaded from acquisitions due to the prohibitive cost of transfers and private attorneys.

3.4.6 Availability charges

The system of ‘availability charges’ used by municipalities to levy service charges for services that are ‘available’, but not provided, is one of the biggest factors in the perpetuation of a landless generation. The system was created where a landowner paid for the services that were theoretically available, even if he/she did not use or need those services. While intended as a revenue enhancer, this system has prejudiced the most vulnerable and disempowered potential landowners most profoundly. Even if land parcels were provided free of charge to individuals, they would not be able to afford the holding costs. This is a primary barrier to the acquisition of land tenure for the most disenfranchised individuals.

A further negative effect of this system is the fact that thousands of properties have been consolidated by landowners who own more than one adjacent property. They consolidate these properties so that they only have to pay availability charges on one property. This cannibalistic measure has essentially wiped out thousands of properties, and something should be done to stop this urgently. This has also acted as a primary barrier to individuals actually being able to acquire property – and being able to afford it – which robs individuals of the dignity that comes with title holding.

Between 1995 and 2005, according to a ministerial response to a written parliamentary question, 298 449 erven, 22 856 farms and 236 agricultural holdings were consolidated. Since 2005 the number of consolidations has increased even more, as rates and taxes have increased exponentially, and rates and taxes were phased in on agricultural properties. This means that these properties have ‘disappeared’ from the deeds register and attempts to have them subdivided again would be a virtually impossible task. This has in effect protected those who already have properties (which they have consolidated – and reduced

their exposure to being taxed), while prohibiting the 'landless' majority from being able to afford property – even if they were to be given land.

3.4.7 Once-off subdivision

Land redistribution would be exponentially advanced should the government make it possible for landowners to automatically subdivide a portion of their property, with the proviso that the subdivided parcel is given to a land reform 'beneficiary' of the owner's choice (this pertains to options 1 and 2 discussed above). Many landowners have a few very good workers whom they would like to assist to become landowners, but unfortunately, they are limited from doing so in law. This would also activate a mechanism whereby individuals who have toiled within communities for generations would be able to realise land titles without prejudice to any other party. This would also make land reform a community-based exercise and would enable positive and appropriate action to be taken by individuals – in the interests of true and authentic transformation.

3.4.8 Amnesty on tax-indebted properties

There are thousands of properties in South Africa, especially in the rural areas, that are lying dormant with owners who have just 'vanished'. Those owners would love to get rid of some of those properties, free of charge, on condition that unpaid rates and taxes are written off. If a window period were created where those owners could come forward and donated those properties back to the State, on condition that the unpaid rates and taxes were written off, the State might end up with many new properties for land reform.

4. WHO SHOULD BENEFIT FROM LAND REDISTRIBUTION IN RURAL SOUTH AFRICA?

As we have shown above, much of the land targeted for redistribution in this 'fast-track' phase is currently not being used sustainably, whether from a financial or social perspective, and may not be used sustainably from an environmental point of view either. However, we believe that redistributed land should be used productively to secure employment, full-time livelihoods and economic growth in rural South Africa¹¹. While this does not always mean that it should be farmed or grazed, beneficiaries are expected to use it in a manner that optimises the wider economic spill-over effects. Markets cannot be relied upon to produce these optimum impacts: for this to happen the appropriate support services should be effectively provided and well-coordinated. At the same time, beneficiaries should not be indebted and therefore the cost of land acquisition and access to working capital and assets should be made affordable. However, in a risky industry such as agriculture in today's globalised and deregulated environment, and impacted by rapid climate change, the characteristics and ability of the 'jockey' are also critical to ensure a sustainable and successful enterprise. For this reason, the selection of beneficiaries should be done with great care.

While the main aim of the land redistribution programme is to redress the impact of past wrongs, it should also ultimately aim to support aspirant black entrepreneurs. However, a programme of this nature will not make an agricultural producer out of every participant, although it should go a long way in creating an inclusive and viable rural economy within which agriculture and the related linkages can develop.

There is an obvious trade-off between bureaucratic control of beneficiary selection and self-selection of potential beneficiaries. International experience highlights the limitations of the former, while reliance on market mechanisms excludes the poor and could lead to elite capture. Therefore, as we have seen, the NDP proposes that the process should start with the local Land Management Committee, which has to specify what kind of farming landscape they wish to see in their area of jurisdiction. On this basis, they should then invite potential beneficiaries to apply for the different opportunities that arise on a project-by-project basis to take advantage of the specific opportunities that are created. In some cases, these projects will be implemented by public-private partnerships, in some cases by existing commercial farmers, and in other cases by the beneficiaries working with the relevant authorities.

¹¹ We do however, not rule out land to be used for settlement or housing and it should certainly be an option for contested land next to the urban and peri-urban fringes.

One of the key objectives of the programme to redistribute agricultural land should always be to ensure the productive use of the land to promote agricultural growth, food security and exports. Note that the NDP does not propose that all beneficiaries should become commercial producers, whether large or small. What it does propose is that beneficiaries, who will become a favoured few amongst a very large population of poor people, have a responsibility to use the land in a socially productive manner. This does not always mean that they have to produce agricultural goods, but they must give effect to the objectives that the local Land Management Committee has specified. As a result, no single set of criteria for beneficiary selection is possible. What is possible is to design processes of beneficiary selection that are fair and transparent. This will also include criteria that target specific kinds of beneficiaries, based on gender, age, education, income, disabilities, and most importantly farming skills.

In our proposed mechanism of redistribution of land discussed earlier, existing commercial farmers and agribusiness will play a major role in donating land, providing mentorship, support and finance. They should therefore, in light of their understanding of the realities of the specific agricultural industry, the region and the entrepreneurial needs, be able to select those people who should be settled on the land made available. It is most likely that the new farmer would be linked closely to the existing enterprises in terms of access to inputs, advice, finance and markets. In those cases, there should be no role for the Land Management Committees.

Each farmer volunteering to contribute to the land reform programme will thus donate land to a worker or external beneficiary (who will be registered in the virtual depository) of his/her choice and through an incubation process support this farmer in becoming a fully-fledged full-time farmer over a period of time. Under these circumstances issues of trust, farming experience and proven track record might be more important criteria for the benefactor and therefore it once again makes it unrealistic to prescribe any criteria. Nevertheless, it has to be done with great care to ensure success and minimise conflict.

Finally, while most of these functions should be carried out within the framework of the District or Local Land Management Committees, it will also be necessary to establish the need for national frameworks, for example in terms of who exactly can serve on the committees, and what is allowed as beneficiary selection criteria, etc.

5. WHAT KINDS OF RIGHTS SHOULD BE HELD ON REDISTRIBUTED LAND?

All the agricultural land available for redistribution in the fast-track phase is freehold land by definition, and carries legal title deeds. Thus, it makes sense to allocate full title deeds with tenure security to beneficiaries, but this need not be a suspensive condition for project implementation. There is the option to implement a phased approach whereby beneficiaries can enter in medium- to long-term lease agreements with private landowners (or the State or SOEs) with the option to buy after a specified period as envisaged in the NDP. In this regard, the NDP proposes that a full performance appraisal of the beneficiary's business be conducted after they have been supported for the first four years. The rental agreement will include support systems, finance from agribusiness and some important performance measures for the beneficiary.

It is also possible that beneficiaries could effectively become landlords (e.g. through the restitution process), with ownership vesting in the group, while the farming operations are on an individual basis (as illustrated in the text box above with the sugarcane example).

Title deeds or alternative forms of secure tenure, such as long-term lease contracts, are important for empowerment and dignity, self-motivation and entrepreneurial drive and for the ability to create wealth for future generations, if not for the immediate beneficiaries. At the same time, the collateral secured via the title deed provides an important benefit as a tool to leverage working capital and finance to operate the farm productively. Any farming operation needs access to bridging finance to operate the enterprise, pay wages and support the family until harvest time, which could be in 9 months, 2 years, or a longer time horizon.

Throughout the recent discourse in South Africa there seems to be an aversion to the principle of using land as collateral to access finance. There seems to be some misunderstanding of the risks facing any

lender in lending money to individuals to acquire assets or inputs. There is no guarantee – given the inherent risk of agriculture – that individuals will repay the borrowed funds. So what guarantee does the financial institution have? What happens if the asset is not used to produce an income stream from which the monthly or annual payments are made? In essence, the land as collateral is a measure to ensure that the annual commitments are made, as the lender will be able to sell the asset to recover the loan if the borrower does not pay.

The collateralised asset therefore facilitates access to finance, as it reduces the risk of default and losses for the lender – which otherwise will be difficult. At the same time, borrowing money can make financial sense since it provides an opportunity for leverage and growth of the enterprise. The use of farmland as collateral to access finance has distinct and crucially important benefits, but here we will name just one, namely, to increase returns.

We recommend individual, or at most family operations, since group farming is bound to lead to failure due to internal conflict, poor accountability and difficulties relating to the division of labour and responsibilities and sharing the meagre proceeds from farming. Selling assets necessary for the operation becomes a useful opportunity for cash generation to share among the group but unfortunately hastens the financial collapse of the farm.

Individual and family rights to farming are therefore the only viable option, and, in this context, we can recommend two farm models that could have a greater potential to succeed.

First, we propose a model of individual farmers on privately-owned land, by renting or leasing the land from a private or corporate owner (or alternatively from a Common Property Association or Community Trust). In this case, there will be private contracts in place defining the rights to land. It is likely to be a viable option if the possible constraints to production finance are dealt with. Credit arrangements with the landlord or interlocking contracts with retail or processing companies could provide viable options. Some mentorship arrangements or contract farming operations could also be relevant here to assist with potential price and other risks in the case of the land ownership vested with a community trust or CPA. It is important that the rent paid to the community is in line with market rates and that the proceeds to the community members are well managed and well distributed to individual members¹².

Second, we support a model where the farmer is the individual operator and the landowner. This is the most prevalent and successful small farmer model around the world. Again, this is a viable option given that access to finance could be less problematic due to available collateral. Although this could increase the vulnerability and risk of the farmer, it could be overcome by strong links with agribusinesses, input companies, financiers as well as solid off-take agreements. This model has been regarded as being successful in many parts of the world where smallholder farming operations dominate.

There is another vexed question: should land currently under freehold be allowed to revert to communal ownership? While there exists a strong bias against this, it is up to the relevant Land Management Committee to decide whether it fits into their vision of farming and other rural activities in their area of jurisdiction. It is easy to imagine circumstances where this would be a viable option.

6. WHAT KINDS OF SUPPORT SHOULD BE PROVIDED TO BENEFICIARIES?

Establishing a farming business from scratch is very difficult given the large land and capital costs. It is unlikely to be achieved successfully without the assistance of the State – not in 1920 and not even in 2020. In order to create a decent chance of success for newly settled farmers, a number of things need to be in place to ensure success and sustainability. However, before these State support elements are listed, it is important that one understands that these support programmes will only have the necessary impact if there are some forms of accountability, responsibility and agricultural skills and interest from the beneficiaries. It would be wise to avoid the dependency syndrome at all costs. There should always be a

¹² There are a number of successful cases of these models in operation in South Africa with communities experiencing considerable improvement in well-being and livelihoods through the rental income generated from the land they own but operated by individual commercial farmers.

personal commitment from the beneficiary to ensure a success story and to ensure that government support was successful in leveraging the opportunity for the beneficiary.

The elements of a decent support programme could include:

- Dedicated access to a well-qualified extension officer (in today's terms it can be provided by the agribusiness and agricultural input firms).
- Mechanisms to subsidise capital needs. This includes full or partial direct subsidies, delayed payments and phasing provisions as explained earlier.
- The annual payment for the land acquisition is calculated over a longer period – perhaps 40 years (and not the standard 10 years prevalent in agriculture). It is also possible to include elements such as deferred payments whereby beneficiaries are given a 5-7 year grace period before repayment of capital and interest (obviously at subsidised rates) kicks in.
- If the beneficiaries satisfy all the prescribed conditions after an agreed number of years, they are entitled to the title deeds, after which they can make use of the land at their own discretion (implying that prior to this they had to heed the advice of extension officers).
- Subsidies for on-farm improvements and infrastructure (fences, boreholes, pumps, cattle pens) could be provided via the CASP programme (or the new envisaged producer support policy of DAFF) but the payment process should be changed. It should work on a co-funding model and state reimbursement according to government approved tariffs. Farmers will pay for the improvement (using their own resources or a loan from the Land Reform Fund) and then claim the refund from the relevant government office based on proof of expenditure and on-site inspection to verify actual expense. The refund can be offset against the outstanding credit amount.
- Some form of social support initiatives such as medical services and education as well as a small start-up salary grant could also be considered to facilitate a smooth settlement process.
- Commitment from agribusiness firms and financiers to provide some of the elements of this support package on behalf of the government.

All of this is possible to implement and comes at low costs and will ensure that black farmers will benefit from a similar support system which empowered white farmers in the previous century.

7. WHAT ARE THE DESIRED OUTCOMES OF REDISTRIBUTION?

One of the major problems with South Africa's land reform process is that there is no clarity on its objectives, which in turn makes it difficult to decide when land reform has been successful and when not. In this regard, statements about the failure of the programme are not very constructive. By contrast, the fast-track process envisaged here has built-in measurable milestones whose achievement will lay the foundations for land reform in the future. This is important, as we believe that land redistribution should not be envisaged as a project that will come to an end at some specified date in the not-too-distant future, as it was originally planned when the target was set at '30% by 2014'.

It is clear that land restitution and tenure reform are ongoing projects, at least for the foreseeable future. So too, land redistribution should be an ongoing project. The emphasis between these three programmes of land reform may shift over time, as it has in the past, but it is hard to believe that South Africa will reach a point where new entrants into agriculture do not need assistance from existing farmers and from the state. After all, few countries in the world do not have such dedicated support programmes.

South Africa's population is 70 percent urbanised, and the rural population, especially in the communal areas, is older and less educated than the population at large. In the NDP it was estimated that around 1 000 000 livelihoods could be created by affording greater opportunities in the communal areas, by expanding irrigation in both the communal and commercial areas, and by encouraging forward and backward linkages. In our view, one million families or some five million individuals will benefit, and this comes to a fairly large proportion of the country's rural population, and a larger proportion of its poor. Any expansion of livelihoods beyond these numbers can only come through increased and expensive expansion in irrigation infrastructure.

8. CONCLUSION

Our conclusion is that South Africa should change direction in terms of the implementation of land reform. To this end, we propose a fast-track process, lasting five years and heavily dependent on a virtual land depository and a Land Reform Fund, as the key focus areas of land reform. Current efforts in the arena of land restitution and of tenure reform need not be held in abeyance: after all, these programmes form an integrated whole that is greater than the sum of its parts. There is one issue that bears repeating, namely that farmers, especially new entrants to farming, require a supportive farmer support framework. Most of the elements of this framework have been highlighted above (market access, access to funds, security of tenure, skills, etc.). However, as long as the agencies responsible for the creation of this farmer support system are divided, the outcome will be sub-optimal.

Our proposal presented here can be characterised as a ‘state incentivised but private sector delivered’ or ‘decentralised but state enabled’ process of land redistribution. Included in this private sector delivery, and a substantive part of the fast-track process, is the important element of voluntary contributions of land, time, finance, inputs, and skills by the farmers, businesses and urban elite that benefited from our unjust past. In essence, this is a call for land (and capital, skills, and expertise) to be donated in the interest of inclusive economic growth and improved equity in land ownership and economic opportunity. This is the *Thuma Mina*¹³ call for land and property owners. If taken up with good intent by the private sector it should not be captured by the political or urban elite but will empower all aspirant farmers – from the very small to the larger commercial entrepreneurs.

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¹³ *Thuma Mina* means ‘send me’ and refers to President Ramaphosa’s first State of the Nation Address (2018) where he quoted the like-named song by jazz musician Hugh Masekela, using it as a call to service to the nation.

ANNEXURE 1: THE REAL NUMBERS ON LAND REFORM

The main problem of the land reform debate is the misinterpretation of land reform statistics. This annexure provides the official numbers that are correctly interpreted.

With recent numbers acquired from the Department of Rural Development and Land Reform (DRDLR), we can report our best guess of the achievements of the land reform programme to date. First, it is important to understand the total land size in South Africa and as Table 1 shows there were 81,4 million hectares of farmland under freehold tenure in 1993 (adjusted from the agricultural census figure of 82,5 million ha, as a result of the DRDLR recent update on the area covered by the former Bantustans). Since 1994, a total of 3,8 million hectares of farmland was lost to urban development, mining and other non-agricultural uses, reducing the area of freehold farmland to 77,5 million hectares.

Table 1: South Africa - land size

| Land item | Hectares |
|---|--------------------|
| South Africa total | 122 518 143 |
| State-owned land | 10 566 215 |
| Nature conservation, national parks, etc. | 7 448 764 |
| State forests | 1 812 478 |
| Department of Water Affairs | 575 723 |
| Department of Defence | 688 127 |
| Correctional Services | 41 123 |
| Urban areas, towns and villages | 11 357 935 |
| Land under traditional tenure¹⁴ | 18 434 122 |
| of which farmland as defined by DAFF | 15 580 000 |
| Farmland under freehold tenure (1993 agricultural census as adjusted) | 81 461 013 |
| Land use change due to urban sprawl, mining, expansion of parks and forests since 1994 | 3 880 000 |
| Total area of farmland under freehold (2018) | 77 581 013 |

Sources: Bornmann (2018); DRDLR (2019); GEOTERRAIMAGE (2015).

Of these 77,5 million hectares, a total of 8 593 444 hectares (or 11,1%) was allocated to beneficiaries via the redistribution and restitution programmes since 1994. We estimate through our own research and analysis of deed transfers, that black farmers acquired an additional 1,9 million hectares (2,4%) privately without the support of the government programmes.

Due to the suspension of the Land Redistribution for Agricultural Development (LRAD) and Settlement/Land Acquisition Grant (SLAG) programmes in 2006 very little redistribution to individual owners happened while the State has acquired, and still owns, a total of 2,3 million hectares (or 2,8%) of farmland instead. Many communities elected to receive financial compensation as part of the restitution process. Up to date, this accounts for a total of 2 920 386 hectares. Of these cases, urban land makes up a total of 581 045 hectares and the balance is farmland.

¹⁴ This number was recently updated by the DRDLR due to the change in provincial boundaries, which provided an opportunity to update land areas under different land tenure regimes.

Table 2: Summary of land redistribution statistics

| | |
|---|------------------------------|
| Agricultural land acquired by the State since 1994 and still held by the State for land reform purposes (Source: DRDLR as at Nov 2018). | 2 289 063 ha |
| Agricultural land acquired by the State for development purposes (municipalities and provincial government). | 643 995 ha |
| Redistribution (Source: DRDLR, Nov 2018). | 4 901 150 ha |
| Restitution (Source: DRDLR, Nov 2018). | 3 692 294 ha |
| Private transactions (black willing-buyers buying from white willing-sellers without assistance or involvement from DRDLR). | 1 968 057 ha |
| Land owned by white farmers (Nov 2018). | 64 785 312 ha |
| | (78,9% of 1993 total) |

Note: DRDLR, 2018 is from a Parliamentary reply by the Minister of Rural Development and Land Reform, Maite Nkoana-Mashabane, released in early 2019.

If we compare the redistribution and restitution numbers released by Minister Nkwinti in February 2017 and the numbers provided by the DRDLR in early 2019 for the year up to end-2018, the slow progress is clearly evident. Only 51 000 hectares were redistributed to beneficiaries for the full two-year period 2017-2018 while 302 000 hectares were returned to communities and beneficiaries under the restitution programme in those two years. This signals a very slow land reform progress, in actual fact, the redistribution of farmland has almost come to a complete halt with the only real action being land purchases by the State through the Proactive Land Acquisition Strategy (PLAS) programme. This again confirms the argument that when the State acquires land it is unlikely to redistribute the title deed to beneficiaries. Moreover, one aspect completely missing from our land reform programme is the issue of tenure reform in the former homeland areas. This is an important omission and something that the Constitution demands of the State. The latest DRDLR statistics do show land tenure reform on 782 487 ha of farmland. It is not clear what this really entails.

The numbers presented in Table 2 are very useful but remain incomplete and probably still provide an underestimation. The transfer of land to companies and trusts could still not be verified in terms of their racial classification. It also excludes the black shareholding on existing farms where equity sharing schemes were implemented. In addition, the table also does not include 2 339 342 ha of farmland for which communities elected to receive financial compensation instead of the transfer of the land, as well as the 780 000 ha of tenure reform. So, the land rights restored remains a conservative estimate, with the real number being closer to 25% of all farmland previously owned by white people that have either been compensated for or are now owned by the State, CPAs, black individuals or black shareholders in companies, farm companies or trusts.