

RESEARCH Report 27

Business Models in Land Reform

Edward Lahiff



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Business models in Land Reform

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This document forms part of a series of reports researched and written by the Sustainable Development Consortium, led by Phuhlisani Solutions, on behalf of the Commission on Restitution of Land Rights and Belgian Technical Cooperation.

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Acronyms

ARDC	Agriculture Rural Development Corporation
ASGISA	Accelerated and Shared Growth Initiative for South Africa
CASE	Community Agency for Social Enquiry
CASP	Comprehensive Agricultural Support Programme
COMBUD	Commercial Farming Budget Manual
CPA	Communal Property Association
CPI	Communal Property Institution
CRLR	Commission on Restitution of Land Rights
DLA	Department of Land Affairs
DWAF	Department of Water Affairs and Forestry
EPWP	Extended Public Works Programme
IDP	Integrated Development Plan
LRAD	Land Redistribution for Agricultural Development
MOU	Memorandum of Understanding
NGO	Non-governmental Organisation
QOL	Quality of Life
RDG	Restitution Discretionary Grant
RLCC	Regional Land Claims Commission
SAFM	South African Farm Management
SDC	Sustainable Development Consortium
SLAG	Settlement/Land Acquisition Grant
SPG	Settlement Planning Grant
UADP	Umnotho Agricultural Development Project
UNDP	United Nations Development Programme
VSB	Vredendal Saamwerk Boerdery

1. Introduction

This paper reviews the types of business models, or land-use models, being implemented in land reform projects involving the transfer of rural land to communities and other groups in South Africa, under both the restitution and redistribution programmes. It draws heavily on the series of Diagnostic Studies prepared as part of the Sustainable Development Consortium's (SDC) work on post-settlement support, but also draws from other studies on restitution, notably that conducted by the Community Agency for Social Enquiry (CASE) in 2005, and the wider literature on redistributive land reform in South Africa.

The aim of this paper is first to identify the types of business model emerging within land reform, and to analyse how they have been implemented and the implications for sustainable development and poverty alleviation. The subject matter inevitably overlaps with other thematic papers in this series, particularly that on livelihoods, but focuses specifically on the business models and aims to avoid repetition of issues discussed in more detail elsewhere.

A critical issue facing any review of land reform in South Africa, and commented on by many other authorities, is the very limited progress made with any productive land-use across all types of land reform. The vast majority of restitution projects, in particular, have not achieved their developmental aims. The CASE study of 2005–06 stated the problem thus:

Of the 128 projects with agricultural developmental aims, 83 percent have not achieved these developmental



Photo: Marc Wegerif

aims. Approximately nine percent (12) have partially achieved their agricultural developmental aims but are not generating any income. A further five percent have partially achieved their agricultural developmental aims and are generating income. However, these five percent of projects are not making a profit and are not sustainable yet. Two percent have achieved their agricultural developmental aims and are generating minimal profits that are reinvested. Thus, only one project (of a total of 128) has attained its agricultural aims and is generating a substantial and sustainable profit.¹

Similar underachievement is recorded for housing, mining, tourism and other activities on restored land. Concerns have also been raised by various authorities, including the former Minister of Agriculture and Land Affairs, Thoko Didiza, about the underperformance and even collapse of redistribution projects in many parts of the country.²

In a review of the livelihood impact of selected case studies in restitution, the SDC found that settled claims were generally failing to deliver significant benefits of any sort to the members of community claims:

The most striking finding from the case studies is that the majority of beneficiaries across all the restitution projects have received no material benefit whatsoever from restitution, in the form of cash income, or access to land.³

In other words, there remains an enormous gap between the ambitious promise of settlement agreements and the reality on the ground. This gap has been attributed to a range of factors, and the recurring issues can be summarised as follows: inadequate or unrealistic planning at the time of settlement; little or no assessment of the needs (or capacities) of claimants; lack of skills and capital on the part of claimants; slow release of grants from the regional offices of the Commission on Restitution of Land Rights (CRLR) and other government bodies; lack of post-settlement support from the CRLR; and difficulties accessing a range of state support services, most notably those of the provincial departments of agriculture, the Department of Minerals and Energy Affairs and local municipalities. While there are a number of notable success stories, particularly in the areas of eco-tourism and some high-value agricultural

¹ Community Agency for Social Enquiry. 2006. *Assessment of the status quo of settled land restitution claims with a developmental component nationally*. 14 February, p. 21.

² *Farmer's Weekly*. 2005. Didiza offers reasons for Limpopo failures. 18 November.

³ Sustainable Development Consortium. 2006. *The impact of land restitution and land reform on livelihoods. Thematic paper*. Programme for Land and Agrarian Studies, University of the Western Cape, and Sustainable Development Consortium. August, p. 16.

production, these stand in stark contrast to the majority of settled claims where little or no productive activity is taking place and few if any benefits have yet come to intended beneficiaries.

The slow progress with most settled claims also means that any conclusions about the merits of particular models

can only be tentative at this stage, and will involve a considerable degree of speculation. Much more time will be required before more definitive conclusions can be drawn. Nevertheless, the available evidence from both successful and less successful ventures provides valuable lessons that can be applied in future settlement of claims and in land reform more generally.

2. The range of business models in land reform

Land reform takes a wide variety of forms, depending on the land reform programme involved, the type of land and the size of the beneficiary group. For purposes of this paper, the discussion will be limited to the restoration or other transfer of rural land which is intended to be used for agriculture, forestry, eco-tourism, mining or similar land-based activities. Housing settlements, and small business developments that are not land-extensive in nature, are deliberately excluded on the basis that they would require a separate and more specialised discussion that involves wider issues of government policy and the economic environment.

The business models adopted, or planned, in land reform projects have two main dimensions: firstly, the type of land-use, be it agricultural, conservation, mining or other; and secondly, the form of socio-economic arrangements associated with that land-use. The socio-economic arrangements may include direct participation of members in agriculture, employment as workers in a commercial venture, or receipt of a share of profits via a communal property institution (CPI) without any direct involvement in land-use. Where members have direct access to the resource, socio-economic arrangements may vary considerably: for example, a decision to use land for agricultural production may result in sub-division of land to individual households, collective production by the CPI (or a sub-group within it), or some form of partnership with an external party (for example, a strategic partnership). The socio-economic arrangements are of great importance not only in how land is accessed and used, but also in the distribution of benefits to members, especially in cases where benefits are indirect and channelled through a CPI.

Four broad models of land-use can be identified from the emerging literature on land reform, which cut across the various economic sectors of agriculture, forestry, tourism, conservation and mining. They are as follows:

1. Individual (or household) access to land, typically for small-scale agricultural production and natural resource harvesting.
2. Group access to, or control of, land (by either the entire CPI or a sub-group within it), typically for larger-scale agricultural production or tourism activities.
3. Joint ventures with external parties (that is, non-members of the CPI), to engage in a range of agricultural or tourism activities.

4. Contractual arrangements with external parties, whereby effective control of some or all of the resource is handed over for a specific period of time, with little or no direct involvement by CPI members, in return for some form of payment (for example, rental, share of profits, etc.).

These four categories are clearly abstractions, and overlap between them is often found in specific cases, for example, in the case of eMpangisweni in KwaZulu-Natal, where a portion of the restored land is farmed on a commercial basis and the remainder is open to individuals for settlement and small-scale farming. Categories 3 and 4 also tend to overlap, the main distinction being the degree of involvement by community members in day-to-day activities. For example, in the case of the Zebediela citrus estate, in Limpopo, production is effectively in the hands of an external strategic partner, but the community holds shares in the operating company and a limited number of community members are involved either as workers or managers on the estate. Despite these limitations, this schema offers a way of thinking about business and land-use models in land reform projects from both functional and socio-economic perspectives, and in terms of production and distribution of benefits. It will be employed here as a means of interrogating the broad business models currently prevailing within land reform in terms of their ability to bring resources into productive use and to generate a flow of benefits for members.

Individual production

Of the categories outlined above, Category 1, individual (or household) access to land for small-scale agricultural production and natural resource harvesting, is the least common (or least acknowledged) with the restitution process. Virtually all settlement agreements and business plans for restored land tend towards unitary models of land-use, whereby the claimant community is expected to use the resource as a single unit of production, either directly through the CPI itself or indirectly through a relationship with an external party. Klipgat in North West Province, Ximange in Limpopo, and Makhoba on the Eastern Cape–KwaZulu-Natal border, are typical examples of plans to engage in collective production which have failed to cater to the needs of the claimant community, and which have seen the emergence of ‘informal’ individual, small-scale farming. In this bias against small-scale farming, restitution

shares much in common with other programmes of land reform, notably the Settlement/Land Acquisition Grant (SLAG) programme up to about 2001, Land Redistribution for Agricultural Development (LRAD) since 2001, albeit to a lesser extent, and even recent experiments in Mpumalanga whereby groups of labour tenant families are being resettled on specially purchased farms, without formal sub-division.

While collective processes may be a logical choice where the resource clearly needs to be managed as a single unit of production, as at Zebediela citrus estate or the Makuleke and Dwesa-Cwebe claims on conservation areas, what is perhaps surprising is the predominance of collective solutions on relatively undeveloped agricultural land, where sub-division and individual (or household) forms of production would be a feasible alternative. The point here is not to make a case for smallholder production at the expense of other models, but to raise critical questions around the widespread bias against smallholders and individualised production and the failure to give this model serious consideration even in cases where it is feasible, demanded by community members and likely to generate more immediate benefits for more people than unitary or 'commercial' models.

Some individualisation of land-use would appear to have many advantages, given the type of resources being restored and the typical skills, assets and livelihood needs of community members. Individualisation of production, in the agricultural context, would have the added advantages of allowing immediate access to land, and thus to livelihood benefits, for those members who desire it, without being dependent on other members of the community. It would also reduce the need for ongoing collective processes around access to resources, organisation of production, payment of bills and distribution of benefits which are proving so complicated and controversial in many land reform projects.

Nevertheless, the option of individualisation has been strongly discouraged and is absent (or unacknowledged) in the vast majority of settlement agreements and business plans. This may in part stem from a feeling within claimant communities, in particular, that they share a common destiny and want to return to their land 'as a community'. But whether this is driven by a genuine desire to engage in collectivist forms of enterprise, or by a perceived need to conform to conventional models being promoted by state agencies and commercial farming interests, is an

open question. Many members of claimant communities already engage in some form of agricultural production, or run small businesses, which tend to be overwhelmingly on an individual or household basis. This suggests that there is no predisposition towards collective activities beyond the restitution claim process itself, which can be seen as a unique (and time-bound) event that requires communities that lost land as a group to claim as a group. The transition from claiming as a group to running productive activities as a group, is not, however, an inevitable one. The widespread promotion of collectivist solutions suggests that the explanation for this trend lies not with communities themselves, but in a generalised bias against individual landholding and small-scale agriculture among policy makers and implementers.

The evidence for such bias is not difficult to find. Staff of the offices of the Regional Land Claims Commission (RLCC), provincial offices of the Department of Land Affairs (DLA) and, perhaps most obviously, provincial departments of agriculture, actively discourage sub-division (even informal sub-division) of land and household agricultural production. Small-scale agriculture is routinely disparaged as 'subsistence' or 'expansion of the communal areas', something to be guarded against at all costs. Within the provincial departments of agriculture, in particular, great emphasis is placed on the 'protection' of agricultural resources (i.e. the soil), but this is linked to specific models of commercial agriculture, as supposedly practised by white commercial farmers. This bias is neatly captured by the MEC for Agriculture in Limpopo, and echoed by numerous extension officers in her department when faced with resource-poor farmers, that 'farming is a business' – with the implication that those who cannot run a business should not have access to land.⁴ In many cases, the bias against smallholder agriculture and the imposition of 'whole farm' solutions is most actively advocated by private consultants appointed by the RLCCs to prepare land-use and business plans, who tend to understand their brief to be the preparation of a conventional 'farm plan', along commercial lines, and typically have no experience of alternative – small-scale, low-input – forms of agriculture. The great irony, of course, is that there is little congruence between the idealised model of a 'commercial' farm, under a single entrepreneurial owner, and the reality of a large group of relatively poor, poorly skilled and risk-averse people, with complex livelihood strategies and little or no tradition of working as a group.

⁴ Limpopo Department of Agriculture. 2005. *Budget Speech*. 26 April.

Examples of individualisation do exist, however, both planned and unplanned, which suggests that this model should be more widely applied if the official bias were relaxed and communities given more freedom of choice. At Munzhedzi, in Limpopo, differences between the elected communal property association (CPA) committee and the traditional headman led to community members effectively 'invading' their own restored land and sub-dividing it into 'traditional' homesteads of approximately 0.5 to 1 ha, this being sufficient space for an extended household, a vegetable garden and a cattle kraal. Roughly half the total land is reserved for communal grazing and arable fields for those who are interested. Significantly, no productive activities are collectivised – rather, households are expanding the types of activities they previously practised in the communal areas.

On the nearby Ximange claim, tensions within the community have led to competing models of land-use. The CPA committee, dominated by urban-based professionals, co-operated with the RLCC and a private consultant to develop a land-use plan based on a 'commercial' mixed-farming model, under a farm manager, with no direct access to land for community members. Poor and unemployed members of the community, residing adjacent to the restored land, were more interested in gaining access to small plots for production of food crops and, due to lack of progress with the 'official' plan, moved onto the land, elected their own informal committee and allocated themselves plots of up to 1 ha each. Clearly, the needs of these two different groups diverged greatly, and it is unfortunate that the CPA committee seemed to represent only the interests of the better-off in agreeing to the model of land-use being promoted by the RLCC and its appointed consultants. The community members currently on the land find it impossible to access the outstanding grants held by the office of the RLCC, which insists on working only with the official CPA committee and supporting activities that conform with the 'official' land-use plan. The fact that the CPA has not held a general meeting in over three years, that the committee members rarely visit the farm, and that most community members were not involved in the preparation of the land-use plan, indicates a breakdown of the institution and poses a question mark over the accountability and representivity of the current committee and the model of land use it stands for.

Elsewhere in the country, examples of individual production are hard to find, especially within the 'official' literature. Examples of individual production were found as part of

this study at eMpangisweni in KwaZulu-Natal, and Klipgat in North West, but in these cases it falls outside the official planning processes, and remains largely unsupported by official agencies in terms of extension services or grants. Only at Covie, in the Western Cape, is sub-division of land, and individualisation of production, being actively considered within the formal planning process. This can be attributed to a history of individual production on the claimed land but also the active involvement of community members and supportive non-governmental organisations (NGOs) in a highly participatory planning process that goes far beyond the usual level of planning and participation in most land reform projects.

Although the production of sugarcane in KwaZulu-Natal is undergoing considerable restructuring, including provision of land to relatively small individual producers under LRAD, this model does not seem to have influenced restitution in that province.⁵ Of eight settled restitution cases identified by CASE that planned for sugarcane production, all were proceeding on the assumption that production would be on the unitary (i.e. collectivist) model. In one case, Vusi Oakfort, a sugarcane 'plantation', was being established from scratch with assistance from the Tongaat-Hulett company – seemingly contradicting the wider trend in the industry towards smaller scales of production.

Individual or household control of production offers many benefits to members of community claims, not least in terms of immediate access to land for food production and other livelihood activities. It also appears to be an appropriate and sustainable development model, given the relatively low skills and capital resources available to most members. Unitary, collectivist models of production appear to be promoted largely by official agencies, along with certain members of communities who believe they stand to benefit more from such models or whose identity as leaders, in touch with government agencies such as the RLCCs, causes them to endorse what is proposed 'from above'. Even where unitary solutions are capable of delivering benefits, the available evidence suggests that these activities take a long time to become operational and even longer to deliver benefits to the members. When they do, these benefits are extremely limited when divided among large communities, and opportunities for training and employment are usually accessible to only a minority of younger and better-educated individuals. The persistent demands for individual access to land, largely ignored in official planning processes, and the widespread recourse to individual production in

⁵ SA Sugar Journal. 2003. Inkezo: Land reform initiative. December 2003/January 2004.

the shadow of faltering collectivist models, suggests that this model deserves greater attention within official policy, even as an interim solution while more ambitious plans take time to become operational. At the same time, there is a need for a realistic assessment of the strengths and weaknesses of collectivist models, and how these can be given the support they need to function effectively where they are appropriate. Where possible, consideration should be given to the combination of individual and collective enterprises in order to make maximum use of the land resources available and to spread the benefits as widely as possible.

Group access to land for large-scale agriculture

Collective use of land by claimant community themselves, with minimal involvement of outsiders, has been the dominant model of land-use in settled restitution claims to date. It has also been a feature of many large SLAG projects initiated prior to 2001. This can be seen as a business model of sorts but, in practice, the business element has often either failed to get off the ground or actually involves only a small proportion of the community members. Thus, there may be considerable discrepancy between the 'official' version of what is happening within a restitution project and the reality on the ground. When considering nominally collective enterprises, it is also necessary to distinguish between the operational aspects of running a farm or tourism business and the manner in which benefits (for example, jobs, a share of profits) are distributed among the community, as 'collective ownership' does not always translate into 'collective benefit'. Furthermore, collective forms of land-use require equal investment of time and other resources by the members, or a means of acknowledging different levels of investment, both of which are difficult to manage in practice.

Agriculture is the most common type of land-use within land reform, and is the most likely type for claimants to approach as a group. The emphasis on agriculture is not surprising, given the nature of the land involved (typically rural land previously used for agriculture) and the characteristics of land reform beneficiary groups (typically dominated by rural people with limited education and skills, and pressing needs to acquire food and generate cash income). Thus, both positive and negative factors influence the choice of agricultural production – on the positive side, the land is available and suitable, and people often have the necessary skills and experience to farm; on the negative side, people may lack the resources and skills necessary to engage in alternative land uses.

The emerging evidence from settled restitution claims, and from land reform in South Africa more generally, highlights some of the strengths and weaknesses of the collective model, and provides lessons both for further development of the model and for alternative approaches.

As reported above, the CASE studies of settled restitution claims in 2005–06 found that the vast majority had failed to deliver significant benefits to their members through agriculture. Various explanations are offered for this, of which the most important appear to be inappropriate and inadequate business planning, poor co-ordination of support services (including delays in release of grants) by the CRLR, inadequate capital for investment and production, and lack of organisation among claimant communities themselves. To this might be added the harsh competitiveness and marginal profitability of the commercial agricultural sector, but as few projects have yet achieved commercial scales of production, such real-world challenges have not yet fully manifested themselves. Cases where production has started, even on a limited scale, point to the challenges of the group production model.

At eMpangisweni, for example, development to date has centred on the continued operation of a single commercial farm, more or less in the form it was taken over from the previous owner. Little development has occurred on the other extensive land although there is considerable informal sub-division (through the tribal council) and household farming which effectively falls outside the business plan developed for this community. Production has been maintained, and even expanded, on the commercial portion, largely on the basis of grants obtained from the DLA and the provincial Department of Agriculture. A professional farm manager (not a member of the community) has been employed to run the commercial operation, reporting directly to the chair of the eMpangisweni Trust. To date, the commercial farming operation has not made a profit, and has not been in a position to distribute any benefits to the community members. The main benefits to the community thus far have been in the form of employment on the farm, but even this may be in jeopardy if further external funding is not available and the business fails to break even in the near future.

At Groenfontein in Mpumalanga, and Klipgat in North West Province, plans for collective agriculture have failed to get off the ground. At Groenfontein, the community at first leased its land to a white commercial farmer (the former landowner), and more recently has agreed to lease the land to a small group of its own members. This group is experiencing predictable delays in accessing capital and

starting production, but even if they succeed, the benefits to the wider community in the form of rental income will be minimal. At Klipgat, vague plans for collective production of maize and sunflowers, cattle farming and a range of small, intensive projects ranging from broilers to cut flowers have failed to get off the ground, the only exception being a piggery which is still at an early stage of development. A diverse range of envisaged non-agricultural activities, such as a general dealer, a tourist shop at the snake park, a toilet paper factory and others, have also – somewhat predictably – failed to materialise. Klipgat offers a clear case of a failure to move beyond wish-lists (which cannot by any standards be described as business plans) towards more concrete planning and implementation, but also the failure by any of the institutions involved to conceptualise economic activity as anything other than a group activity for the entire community. There can be little doubt that this emphasis on centralisation and collective action is acting as a deterrent to productive use of assets restored under restitution.

A notable exception to this general trend is the Mangethe restitution case in KwaZulu-Natal.⁶ Here, the community appears to have engaged successfully in collective production of sugarcane, paying salaries to a substantial workforce over a period of three years with minimal support from external agencies. It is not possible to explain the apparent success of this case on the basis of the limited information available, but factors which may contribute to it include the following:

- focus on a crop (sugarcane) which is well-established in the area, familiar to the members, and for which a ready market exists nearby
- competent service providers assisting with business planning and formation of a Trust
- well-organised Trust committee that meets twice monthly and oversees all aspects of production
- general meetings of the community four times a year
- settlement of numerous community members on the land
- purchase of necessary agricultural equipment from grants provided by the Commission on the Restitution of Land Rights (CRLR) – Settlement Planning Grants (SPGs) and Restitution Discretionary Grants (RDGs)
- employment of a professional manager.

Clearly, many of these factors also exist in other, less successful, projects, so their presence alone does not explain

why this project is managing to produce while others are not. Nevertheless, it does suggest that, under favourable circumstances, communities can engage in profitable production as a group. Perhaps one lesson that can be drawn here is that a successful enterprise (particularly a collective enterprise) requires a range of factors to come together in a positive manner, but, as the evidence from restitution demonstrates, the chances of failure are much greater than of success.

One other example of a relatively successful collective enterprise under land reform is the Vuki farm project (formerly known as Whitehall) in the Grabouw area of the Western Cape. Vuki is a redistribution project, and generally described as a share equity scheme, but given that the members own all the shareholding, and all work on the project, it is more accurately described as a collective farm or workers' co-operative. As such, it conforms to the model of collective land-use projected by numerous restitution settlement agreements, but rarely achieved in practice.⁷

Vuki farm may be considered successful in the sense that it produces on a scale comparable to other commercial farms in the area, it employs a substantial labour force, it is considered creditworthy by a range of financial institutions (based on projections of profitability over the medium to longer term), all debts and liabilities – including wages and social welfare contributions – are serviced on schedule, and it appears to be financially sustainable. Benefits to the members of the Vuki project are in the form of wages (and salaries for the directors), dividends (if and when there is a profit, and after loans have been repaid), housing and a range of social benefits, including investment in education and social security for worker-shareholders. Vuki farm would appear to be a land reform success story, in that a failing farming enterprise has been turned around and now appears to be in better financial shape than it was for many years.

For restitution, Vuki holds a number of potential lessons. Firstly, in spite of owning a valuable land asset, members have little expectation of obtaining either dividends or rental income (i.e. returns to land or capital). Secondly, the most that the majority of workers can hope for is a job at slightly above the statutory minimum wage, with social benefits somewhat above the industry average. A number of managerial positions have been created which pay

⁶ Community Agency for Social Enquiry. 2005. *Assessment of the status quo of settled land restitution claims with a developmental component in KwaZulu-Natal*.

⁷ Information on Vuki farm is based on the unpublished report, *Land reform, farm employment and livelihoods: Western Cape case study: Theewaterskloof Local Municipality*, by Karin Kleinbooi, Edward Lahiff and Boyce Tom, presented at the 'Land, Memory, Reconstruction and Justice: Perspectives on Land Restitution in South Africa' conference, Cape Town, 13–15 September 2006.

substantially better, and this small group could be seen as the principal beneficiaries of the project but, like the general workers, these people are earning a wage income (i.e. a return to labour) rather than receiving either rental income or dividends. The benefits of ownership, therefore, are effectively limited to more-or-less guaranteed employment (as long as the enterprise remains commercially viable) and a say in the running of the company, although in practice Vuki is run more like a commercial company than a workers' co-operative. The only other benefit arising specifically from ownership is on retirement, when a member's share in the company is compulsorily bought out by the remaining members, thereby generating a significant one-off pension payout. If similar principles were applied to community restitution cases on high-value commercial farms, it would suggest that material benefits would be limited to those obtaining employment, either in management or in the general workforce; that considerable access to capital and professional management skills would be required to operate along commercial lines; and that benefits for distribution to the wider (non-employed) community membership may not materialise for many years, if ever. Another key distinction between Vuki and the agricultural contractual relations discussed below is that, in the case of Vuki, 100% of the ownership and control of the company, and all its assets, remains in the hands of the members. Finance is raised largely through commercial banks and, while this brings a degree of obligation and dependency, it does not equate to the effective loss of operational control as found in the strategic partnership model, or to the sharing of profits represented by certain joint ventures.

While the choice of agriculture as a form of land-use may be obvious, the particular business models adopted in most restitution cases are much less so. The dominance of collective models can be attributed to a number of factors, including pressure from officials and business planners to maintain the 'commercial' nature of the farming enterprise, the lure of commercial farming as source of cash income, and an apparent assumption on the part of many claimant communities that because they claim as a group they must use the restored land as a group. It is the argument of this paper that the promotion of commercial agriculture by officials and planners as an ideal is the main reason behind the prominence of this type of land-use.

It is worth considering, however, the influence of equity considerations as well. A single, centralised enterprise offers the possibility of continued control of the resource by the community as a whole, and the promise (if not the reality) of an equal distribution of benefits to all community members. A decentralised or differentiated model, whereby some

members would be allocated land for housing, some for agricultural use, and some for small business development, for example, opens up the possibility of unequal outcomes and a loss of control by 'the community' or, in practice, the leadership, as represented by the CPA committee or similar. The general failure to conceive of community-based restitution as leading to differential outcomes and the resulting failure to develop legal or contractual models that would decentralise control of resources, leave communities no effective alternative to the collective model.

The problem with this, of course, is that the model simply does not work much of the time, in that collective enterprises fail to get off the ground or, if they do, the benefits to members are far less than expected and have a minimal impact on livelihoods and poverty. The few 'success stories', such as eMpangisweni, effectively provide benefits for only a small minority of the community, and more often than not this 'benefit' is the opportunity to work for a minimal wage. This paper argues that sub-division of land (even informal sub-division) and individualisation of agricultural production (to the household level) has the potential to be a more inclusive model, that is appropriate to the skills and resources of community members and delivers more immediate and tangible benefits.

Joint ventures

Joint ventures offer a number of advantages to new entrants to the agricultural sector, particularly in terms of access to capital, expertise and markets. They may also have disadvantages, in terms of sharing of profits and loss of autonomy. Each type of joint venture must be critically evaluated in terms of its merits.

A search of the available literature suggests that joint ventures are rare, to date, in the context of restitution, but they are reasonably common in other areas of land reform. This may be because joint ventures include cases where previously disadvantaged participants do not actually acquire land of their own (for example, share equity schemes) or where existing land is now used in somewhat different ways (for example, contract farming). In this sense, joint ventures have tended to focus not on transforming land rights, but on new ways of organising production and ownership of operating enterprises. Another factor which may militate against joint ventures within restitution is the emphasis on collective activities and the often ineffective systems of decision making within new, community-based legal entities. Joint ventures tend to be entered into between commercial companies (or other institutions) and individuals who can commit certain resources to the

venture and be held contractually responsible for their side of the agreement.

The scarcity of joint ventures within restitution may reflect reluctance among commercial operators to enter into ventures with poorly organised and often amorphous communities that have yet to prove their ability to engage in commercial activities. The case of the sugarcane industry in KwaZulu-Natal, mentioned above, may be illustrative in this regard: various contract-farming agreements have been entered into in recent years between the large sugar companies and individual growers who obtained land using LRAD grants; under restitution, a number of communities in the province are producing sugarcane collectively for sale to sugar millers, but do not appear to have yet entered the type of joint ventures seen under LRAD.

In a review of joint ventures within land reform, Mayson identifies a range of partnerships between land reform beneficiaries and external agencies from either the state or private sectors.⁸ The five different types of joint venture arrangement identified are:

1. contract or out-grower schemes
2. share-equity schemes
3. municipal commonage schemes
4. share-produce or sharecropping schemes
5. company-supported schemes.

Some of these models are not directly relevant to restitution, such as share-equity schemes and municipal commonage, while sharecropping is virtually unknown. Nevertheless, lessons from many of these approaches illuminate the challenges and possibilities of joint ventures of various kinds which can provide useful guidance for land reform, and it is worth considering some of them in detail.

Contract farming is an agreement between farmers and processors or marketing firms, the basis of which is a commitment on the part of the farmer to provide a specific commodity in quantities and at quality standards determined by the purchaser and a commitment on the part of the company to support the farmer's production and to purchase the commodity. The contract is very specific and generally stipulates how the crop or livestock should be produced. The producer (farmer) must supply the product to the company at specified times and the price is determined by the quality and quantity of the product. This amount is generally fixed as it is assumed that the company will carry the risk of marketing. In certain

industries, however, the prevailing market price at the time of sale is used as the contract price. In return, the farmer can expect various support measures from the company: the commitment to buy the product as well as the provision of physical inputs, technical training, accounting services, access to credit (often subsidised) and advance payments. At the same time, however, the farmers in these schemes have little power to determine the terms of the contract, which may be exploitative with regard to family labour and other matters, especially where the company enjoys a monopoly position in the market. Contract farming is generally initiated by corporations or companies that want to reduce their direct responsibility over particular stages of less profitable production. In South Africa, contract farming is most common in the sugarcane and forestry sectors.

Share-equity schemes in agriculture are arrangements in which farm workers, small-scale farmers or other disadvantaged people buy shares in a commercial farm or an agricultural processing company. They may already be working on these farms or in these companies, but this is not necessarily the case. The shares may be in an already existing farm or company, or an investment vehicle may be specially established for the purpose. The ability of farm workers or small-scale farmers to buy equity comes from their access to government subsidies, or through access to credit as a result of a long relationship with the company or farm. DLA and other government departments such as the Department of Water Affairs and Forestry (DWAF) and the private sector are directly involved in share-equity schemes. These schemes are most common in the fruit and wine sectors, particularly in the Western Cape, but land reform grants have also been used to buy equity in eco-tourism, small-scale mining and other forms of non-agricultural land-uses. Generally, workers and commercial farmers establish separate business entities which then join to engage in business together. Each commercial farmer and group of workers can design their own type, but broadly the configurations differ in terms of the following:

- The tenure arrangements – who owns the land (the commercial farmer or the workers, or both – separately or together) and what the tenure 'relations are.
- The nature of the business on the land and who owns it – whether it is individually farmed, jointly farmed, and who owns the business.
- The employment relationship on the new farm or business and the different roles that farmer and worker play in the business.

⁸ Mayson, David. 2003. *Joint ventures*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Evaluating land and agrarian reform in South Africa series; No. 7.)

- In the case of a new farm, what the relationship is to the previous farm – whether the workers still work on the previous farm, or only on the new farm.

Investing their state land reform grants in share-equity schemes could provide farm workers with a share in an asset, an income, and an opportunity far better than any other way of investing such a grant. The dominance of white farmers, the current lack of involvement of workers in the establishment of the schemes, and the lack of alternative options presented to them, the risky nature of the schemes, the lack of independent access to land, and the lack of independent monitoring, however, mean that share-equity schemes are the type of joint venture in which the land reform beneficiaries are most likely to be exploited. This necessitates the highest degree of care in designing the ventures. If they are to make an important contribution to land reform, the planning and monitoring components of state involvement must be significantly improved.

Company-supported schemes are joint ventures that emerge as a result of a commitment by a large company to engage in community upliftment as part of its social responsibility programme. Unlike the other joint ventures discussed here, these usually do not involve land reform grants, or indeed any public funding. These programmes fulfil a number of purposes for companies. They contribute to the development of local people, often linked to the company, thereby enhancing staff commitment to the enterprise. At the same time, they serve as a marketing tool, showcasing the company as one which is concerned about more than just making a profit. Benevolent companies appear to dominate many company-supported schemes, but there is no doubt that they can help to develop the expertise and resources of the participants over time. A leading example of such a company-supported scheme is Go Organic at Spier (GOAS), an organic vegetable farm developed with support from the Spier wine estate on 20 ha of commonage land leased from Stellenbosch Municipality for 45 years. Using a loan obtained from the Khula Land Reform Credit Facility, a joint venture was set up which allocated a 27.5% shareholding to small-scale farmers, with Spier owning the remaining 72.5%. Five farmers drawn into the project were given a 5% share in the business.

Joint ventures involving parties where one is essentially a benefactor tend to be extremely complex and often contain contradictory elements. On the one hand, the access to land, capital and expertise that such arrangements make available to small-scale farmers provides a valuable opportunity for poor people to overcome many of the constraints they face. On the other, providing access to

resources and the overshadowing role that the ‘benefactor’ plays in these relationships can be undermining and can establish dependence among beneficiaries.

It is important for companies to strike a balance between allowing projects to take their own course and wanting to intervene to ensure the success of projects. Maintaining this balance through the life of the project, especially when it is thought that intervention may save a project, is very difficult. Where success is determined entirely by the degree to which the project is producing profit, or the project is expected to be a showcase for the involvement of the company in community development, it is likely that the benefactor will be more inclined to intervene. Over-involvement in the success of the venture is likely to result in failure. Where the long-term sustainable development of independent farmers is the aim, it is likely that the benefactor will be less likely to intervene.

In a few parts of the country, municipalities have engaged in joint initiatives with landless people, using land and other resources available to the municipality in order to promote sustainable livelihoods. Many municipalities, especially in the Northern Cape, Western Cape, Eastern Cape and Free State, hold land which is registered as commonage. Commonage is land held by a municipality for the use of the local population and which is subject to various conditions on its use and disposal. Most often, commonage has been used for agricultural purposes. DLA’s municipal commonage policy enables municipalities to apply for grants to acquire additional land for use by previously disadvantaged people.



Photo: Marc Wegerif

Municipalities are well placed to engage in joint venture schemes involving small-scale farmers and to embark on other land-based development projects. They have a particular, constitutionally determined development role, they are part of the state, and they have a clear understanding of local needs, especially given that all local governments are required to have integrated development plans (IDPs). While these factors position municipalities well, they are also faced with a number of contradictory roles and constraints. They must ensure that the development needs of residents are met, while at the same time ensuring good and responsible use of public funds and resources. It is not the role of municipalities to engage in business, but they are required to allocate funds to development projects in a sustainable way to benefit as many people as possible.

The most common way that municipalities have dealt with small-scale farmers and commonage has simply been to supply land for use by the local community. However, some municipalities have become more involved by proactively creating, funding and supporting initiatives with small-scale farmers using their position to draw in other actors, including white commercial farmers.⁹

In Sutherland in the Karoo Hoogland district of the Northern Cape, the municipality has acquired additional land for small-scale farmers through the DLA commonage programme. The land is to be used for sheep farming. In order to stimulate the development of small-scale farmers, the municipality has developed links with a local commercial farmer who is willing to assist in preparing the wool, and has been active in developing markets for it. The municipality plans to provide land in the town where wool could be prepared and where the local manufacture of goods, using some of the wool, could take place. This scheme is at an early stage, but it shows that some municipalities are trying to create an enabling environment for development in their area of jurisdiction.

In Vredendal, in the Western Cape, the local municipality set aside 20 ha of commonage land for people being trained to become small-scale farmers, growing grapes and vegetables. The criteria for their selection were that the person must be physically capable of participating, unemployed or have a household income of less than R1,500 per month, must be from the historically disadvantaged community and a permanent resident of Vredendal. Four full-time small-scale farmers formed the Vredendal Saamwerk Boerdery (VSB) group, which in turn employs 30 part-time workers.

Increasing recognition of the developmental role of local government has meant that municipalities are well-placed to leverage funds from other spheres of government. In the Matzikama project, committed and well-connected municipal officials and councillors have ensured that grants were obtained for the project rather than leaving the farmers dependent on credit. While it is questionable whether access to grant capital is replicable on any scale, the grants provided the project with the ability to proceed without sizable debt, relative to the capital outlay. The access to land and other resources that municipalities enjoy means that municipalities which are intensively involved in joint ventures are often able to make immediate benefits available to participants. At the same time, the project's training and mentoring programme has provided the worker partners with improved skills in farming and business.

The success of municipal joint ventures depends on beneficiaries' ability to control the project and the immediate benefits they receive. Providing immediate benefits is one key for the success of municipal schemes, but long-term success depends on the municipality assisting the beneficiaries to develop their capacity rather than exerting a paternalistic form of control.

Women's land reform interests are often ignored in municipal schemes because it is assumed that they are not interested in farming. Where municipalities merely lease commonage land out, they seldom make provision for women applicants to be prioritised. In schemes where the municipality takes a more active role, there are better possibilities for giving women preferential access, but these are often not pursued. The Matzikama project beneficiaries included women, but the inclusion of women was not specifically made part of the selection criteria. The location of commonage close to towns makes it possible for women to use this public land while continuing to meet their other responsibilities, but the land reform interests of women must be specifically prioritised in municipal schemes.

It is important to note that the capacity of municipalities to be able to take on any of these roles is so very often limited. Matzikama is a strong municipality with a good tax base of powerful agricultural interests, industry and some mining. It is therefore able to build up expertise in its own administration to pursue development projects. This is not common in South Africa – most municipalities have a very low tax base and the capacity of the officials is extremely limited.

⁹ Mayson, David, 2003. *Joint ventures*. Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape. (Evaluating land and agrarian reform in South Africa series, No. 7.)

Joint ventures mobilise private sector and government resources to support land reform initiatives in order to help poor people overcome the many barriers of entry into commercial agriculture. At the same time, commercial farmers and corporations are faced with changed circumstances: they have to recapitalise to enter the global markets, and they have to show their transformation commitments when marketing their goods. Commercial farmers and corporations use joint ventures to address these changed circumstances, but their interests often dominate over those of their smaller partners. Where local government is involved, councillors' political interests often dominate the projects. Government has not prioritised agrarian reform and has therefore allocated a limited amount of resources to it. This means that many joint ventures, including government-supported projects, allow the conduct of commercial partners to go unchecked. Where the government, and DLA in particular, is involved, a different, more proactive and determining role should be created to ensure that the interests of previously disadvantaged men and women are dominant. This means initiating more projects, being more prescriptive, and monitoring projects once funds have been allocated. If this does not happen, state funds for land reform will end up bolstering current landowners in agriculture and the poor will once again lose out.

Contractual arrangements

Contractual relationships, including so-called strategic partnerships, have emerged within restitution as a means of facilitating the take-over of valuable enterprises or the initiation of complex business ventures by claimant communities. Contractual relationships may be distinguished from joint ventures in that the intended beneficiaries are not directly involved in production on the land in question. Early examples of contractual relationships were concentrated in the areas of conservation and eco-tourism, where claimant communities were effectively obliged to continue with existing forms of land-use as a condition of having their land restored to them. Leading examples are Makuleke in Limpopo, and Dwesa-Cwebe and Mkambati in the Eastern Cape. Contractual relationships were scarce in the agricultural sector in the early years of restitution, which saw highly productive farms restored to communities such as Mamahola in Limpopo, and which ended in spectacular failure. The perceived need, on the part of the Limpopo RLCC and others, to avoid such experiences led to the development of the strategic partnership model, which is now emerging as the standard form of settlement

in high-value agricultural land in Limpopo, with other provinces likely to follow.

The first such strategic partnership in Limpopo was the claim by the Bjatladi community on the Zebediela citrus estate, which was settled in 2003. It is currently being implemented in the first phase of claims at Levubu, where approximately 5,382 ha of private land, formerly owned by 63 owners, have already been purchased at a total price of R219 million. A further area of approximately 2,600 ha of state land adjacent to Levubu, mostly under forestry, has also been earmarked for restoration to three of the claimant communities. The claimants in the Levubu cluster are the Ravele, Tshakuma, Ratombo, Shigalo, Tshivhazwaulu, Masakona and Tshitwani communities.

The strategic partners at Levubu are South African Farm Management (SAFM) (also the strategic partner at Zebediela) and Mavu Management Services, a company controlled by a mix of established white operators in the agricultural sector and black partners. Under the new model, the claimant community, organised in a CPA, a Trust, or other legal entity, takes outright ownership (in freehold title) of the land being claimed. Land transfer, and the release of a range of state grants, is specified in a Settlement Agreement signed between the beneficiaries and the Ministry of Agriculture and Land Affairs, in which the claimant community commits to entering a combined shareholding and lease agreement with a specified strategic partner.

The claimant community and the strategic partner subsequently form an operating company, in which farm workers are also given a small share through a specially created farm workers' trust. Specific responsibilities and rights with regard to this company and its operations are spelled out in a shareholders' agreement and a lease agreement between the parties.¹⁰ In Levubu, the allocation of shares is 50% to the restitution beneficiaries (community), 48% to the strategic partner, and 2% to the farm workers' trust. Profits are to be paid as dividend to shareholders (or reinvested in the company) according to their shares. In addition to a 50% share in the company, communities are to be compensated for the use of their land through the payment of rent, set at 1.25% of the land purchase price per annum, meaning that the communities may potentially receive both dividends (profit) and rent (albeit at well below market rates for lease of agricultural land). In a move to protect the long-term interest of the community, it may neither sell, mortgage nor otherwise put at risk its land.

¹⁰ In advance of final settlement of claims, the principal partners at Levubu signed a memorandum of understanding, where the general principles were spelled out. This allowed the RLCC to proceed with the drafting of the more detailed agreements.

While the operating company is jointly owned, the day-to-day management of the farms will be exclusively in the hands of the strategic partner who, in terms of the Shareholders' Agreement, will have full control of all financial and operational matters. For this, the strategic partner charges the operating company a management and administrative fee. This fee, combined with salaries of key managers provided by the strategic partner, should not exceed 8% of the turnover of the operating company. Since the restitution programme does not pay for moveable property, such as tractors, trucks or pumps, the farms that have been transferred no longer have the equipment required for agricultural production. This will now have to be obtained by the strategic partners, on behalf of the joint operating company, either through leasing arrangements or through purchase of new machinery.

According to the model, claimant communities will benefit through a combination of rental paid on the land, a share in profits, training opportunities provided by the strategic partner and preferential employment opportunities in the enterprise. Although the full value of these benefits, with the exception of rent, has not generally been specified during the negotiation phase, there is little doubt that community members are expecting significant material benefits from the restoration of their land and their involvement in the business ventures.

For the strategic partner, the benefits lie in the management fee (more or less guaranteed as long as turnover can be maintained), a share in the profits of the company, and exclusive control of upstream and downstream activities, with potential benefits exceeding that of the farming enterprise itself. Also, by entering into partnerships with multiple communities in a specific area, each owning numerous farms, strategic partners have the possibility of consolidating and rationalising production in a way that was not generally open to the previous owner-occupiers.

A recent paper by Derman, Lahiff and Sjaastad¹¹ identified a number of critical concerns pertaining to this new model that can be summarised as follows:

- Excessive control by the strategic partner, who will effectively dominate the board of the new company and monopolise all financial and operation decisions.
- Guaranteed benefits to the strategic partner, in the form of a management fee and control of upstream and downstream processes, set against the very limited and uncertain benefits accruing to communities in

the form of dividends (in the event of profit) and employment for a few community members.

- Opportunities created for the strategic partners, especially at Levubu, to consolidate farms belonging to multiple communities, with potential risks for individual communities through excessive specialisation, and leading to a potential drop in aggregate employment.
- Potentially insurmountable obstacles facing communities at the end of the contractual period when they effectively have to buy out any investment made by the strategic partner.
- The likelihood that substantial numbers of community members will receive no benefits whatsoever, at least in the short term as employment opportunities are limited and both rental and dividend income (if any) are likely to be reinvested in the commercial operation (as is currently happening at Zebediela).

Strategic partnerships represent a new departure for land restitution in South Africa, which presents both opportunities and risks for the parties concerned. While it is likely that the objectives of land restitution in terms of symbolic return of land to its rightful owners and the preservation of agricultural production are met, the outlook is less encouraging for farm employment, material benefits for communities, and effective land rights for individual members. The problems and weaknesses inherent in the current version of the strategic partnership model cannot be blamed entirely on the commercial partners themselves who, it can be assumed, are motivated largely by profit, with perhaps a dash of altruism. The failure to shape the contractual arrangements more closely to the needs of the communities involved, and especially their poorer members, can in large part be attributed to the speed with which the state institutions involved – the Limpopo office of the RLCC and the provincial Department of Agriculture – have developed the model and the lack of meaningful consultation with community members around its implementation. Lack of capacity within communities, and a poor record of democratic decision making, has also meant that the intended beneficiaries have not been as involved in the process as much as they should have been. This has manifested itself in a growing divide between some community leaders, who are keen to conclude the deals with their new partners and take their places on the board of directors, and the majority of community members who understand little about the process or how they are likely to benefit.

¹¹ Derman, Bill, Lahiff, Edward and Sjaastad, Espen. 2006. *Strategic questions about strategic partners: Challenges and pitfalls in South Africa's new model of land restitution*. Paper presented to the Land, Memory, Reconstruction and Justice Conference, Cape Town, 13-15 September 2006.

The emerging evidence from Levubu suggests that the key policy shift represented by the adoption of the strategic partnership model is away from *land access* by claimants and towards the maintenance of *agricultural productivity* within a 'commercial' context. Indeed, land access for beneficiaries has gone from virtually unlimited, as in claims adjacent to Levubu settled just a few years earlier, to virtually nil. Benefits, therefore, are almost entirely *indirect*, in the form of rents or dividends. In stark contrast to situations where individuals have direct access to land for their own use, benefits accrue to the *community* (or structures representing the community), meaning that the allocation of benefits to individuals (if this is even attempted) is entirely through collective processes, with all the risks and contestation that this implies.

To a large extent, the creation of strategic partnerships is viewed as the 'solution' to post-settlement support in areas such as Levubu. Strategic partners, through their agreements with the claimant communities, become responsible for development of economic activity on the restored land, including the provision of working capital and the provision of training for community members. Yet the needs of claimant communities – not least their land needs – are not necessarily going to be met in full through these partnerships. Substantial support may be required in monitoring the performance of the new joint ventures in order to protect the interests of claimants. CPLs are likely to require extensive support in terms of capacity building, business advice, monitoring of compliance with the terms of settlement agreements, dispute resolution and the like. It is far from clear where such support will come from, or what will be the precise role of the CRLR or other agencies in the future provision of post settlement support. To a large extent, post-settlement support at Levubu has effectively been privatised.

Under the strategic partnership model, individual land rights do not include land access, being reduced to an 'undivided share' in a property which is leased to an entity that is, effectively, beyond the control not only of the individual but even of the group for the duration of the contract. In this respect, it is difficult to see how the strategic partnership model promotes the *land rights* of claimants.

The social, political and economic factors influencing the South African restitution process today suggest that some variant of the strategic partnership model is likely to be implemented across most claims on high-value agricultural land for the foreseeable future. While the emerging model at Levubu is far from ideal, especially from the perspective of poor and unemployed community members, there

is scope for improving it. Probably the most important modification, and one that would bring most immediate benefit to the most people, would be to allow for limited settlement (combining both housing and small-scale production) on non-core agricultural land, up to an agreed limit. A greater emphasis on training of beneficiaries in farm management, business management and corporate and marketing activities, including more specific targets in terms of numbers training and timescales, would also help. Communities need to be given greater power to terminate agreements and assume control of operating companies after ten years, or an extended period of their own choice, without being obliged to immediately repay all debts owed to the strategic partner. Finally, there is a need for the state to play a more active role in monitoring the performance of both operating companies and community leaders with regard to business decisions and the distribution of benefits, particularly when it comes to protecting the interests of poor and marginalised members. Above all, emerging models of restitution must deliver significant material benefits and real rights in land if they are to be sustainable and meet their constitutional obligations.

Outside of agriculture, strategic partnerships and other contractual arrangements have emerged across a range of sectors under the restitution programme – most notably forestry, eco-tourism and mining. Many of the issues discussed with regard to agriculture are also relevant to other sectors, but there are some important differences. A common feature is that they effectively exclude the claimant community from direct control of (and often access to) the resource, substituting the promise of a flow of indirect benefits, in the form of cash income, employment opportunities or development assistance. The available evidence suggests that recurring problems with this model include difficulties faced by communities in understanding complex technical or financial matters, below-expected or delayed sharing of benefits with community partners, and a tendency on the part of community leadership to be co-opted by strategic partners, leaving the majority of community members poorly informed as to the progress of the venture and the benefits to which they are entitled.

Despite the many claims on commercial forestry land, relatively few have been settled to date and few joint ventures in forestry have been reported. At Khambule, in KwaZulu-Natal, the claimant community is considering a joint venture with a private forestry company, which will rent an established forestry plantation from the community for the sizable sum of R600,000 per annum (for a community of 80 households). The private partner is the former landowner, and the community would appear to

have been put under considerable pressure to allow this company, RF Gevers (Pty) Ltd, to lease the land for a further 30 years. This would appear to be much longer than many community members would wish, as they desire to use the land for grazing and cropping purposes. Suggestions have also been made that the community could buy into the forestry company over time, but it is not clear how realistic a prospect this is. Due to delays in transfer of the title deed, however, no rental had actually been paid to the community at the time of research by CASE (August 2005), despite the forestry business continuing as usual for more than a year after the Settlement Agreement was signed. As with many other joint ventures, the Khambule case would appear to put the community at a disadvantage, as they are obliged to accept as partner an established company, which will effectively retain control of the land for a prolonged period while community members will be prevented from using the land in their preferred manner. As in other cases, the challenge will be to ensure that rental income, once it materialises, actually flows to community members in a transparent manner, and that concerted efforts are made to address the continuing land needs of members.

The Klipgat restitution claim offers an example of a joint venture in the mining industry, and highlights the difficulties and risks involved in making such a partnership work to the benefit of the community. As reported in the Sustainable

Development Consortium Diagnostic Study for Klipgat, the community has entered into a highly complicated shareholding agreement with Etruscan Diamonds (Pty) Ltd. Community members expressed great frustration at the complexity of the deal, which they struggled to understand, and with the apparent lack of benefits flowing to the community, despite active mining of alluvial diamonds on their land. Poor communication between community members and their own leadership, and a lack of transparency with regard to community funds, appear to have exacerbated the problem. Another critical factor was the lack of any input by the Department of Mineral and Energy Affairs or other competent authority into the complex deal negotiated between the Klipgat community and Etruscan, or any subsequent monitoring of the contact by the RLCC or other body. As in many other cases, the focus on the joint venture has served to distract attention from the other pressing land and livelihood needs of community members, which remain largely unaddressed. This recurring failure to translate seemingly lucrative commercial propositions into material benefits for community members within a reasonable time frame is clearly undermining the developmental and restorative elements of restitution, is likely to cause divisions within communities and, over time, is likely to undermine support for the joint ventures concerned, which should be a cause for concern for the strategic partners and for all stakeholders in the restitution process.



Photo: Marc Wegerif

Within the field of eco-tourism, the Makuleke claim in Limpopo is generally held up as a success story, and rightfully so. The community has entered into partnerships with South African National Parks (SANParks) for the lease of a portion of land that falls within the Kruger National Park, and with two private companies for the construction and operation of the Outpost and Wilderness game lodges, with up to five more lodges in the planning stage. What distinguishes the Makuleke claim from many others is the agreement that community members may make sustainable use of natural resources in their area, even within the nature reserve, through hunting and gathering. Furthermore, the joint ventures entered into with both state and private agencies are not exclusive, as they allow the community the freedom to initiate other ventures, either alone or with the partners of their choice. Such measure allow for a greater diversity of benefits to community members, in both the shorter and longer terms, than the exclusive ('one size fits all') model typically being applied in joint ventures. Material benefits that have accrued to the Makuleke community have included preferential employment of community members, during both the construction phase and subsequent operation of the game lodges, employment as game rangers, funding for community development, including electrification of two villages and construction of four classrooms in village schools, educational bursaries, funding for small business development in fields such as craft, textile and cultural performance, as well as training in a wide range of professional and business skills.

A number of factors can be identified which appear to have contributed to the relative success of this series of the Makuleke ventures:

- location on a valuable resource, part of a world-famous eco-tourism site
- involvement by SANParks, a dynamic national agency
- close involvement of the Minister of Agriculture and Land Affairs
- close involvement by a wide range of NGOs and other support agencies, possibly unprecedented in restitution to date
- settlement of the claim via the Land Claims Court, which may have resulted in a more detailed and enforceable agreement than is typically associated with administratively negotiated settlements (i.e. Section 42D)
- generous support from a range of state agencies
- a well-organised and dynamic CPA.

By contrast, at Dwesa-Cwebe in the Eastern Cape, plans to lease the nature reserves to Eastern Cape Nature



Photo: Marc Wegerif

Conservation have led to little concrete development five years after the formal settlement of the claim, due to delays in transfer of land title and lack of clarity around the use of dues to be transferred to the community trust. In this case, once again, a community which is entitled to restitution is being hampered by a relatively complicated deal, mainly involving state agencies, which cannot be resolved by the community alone but requires active support and co-operation from a range of bodies, which has not been forthcoming to date. In the meantime, the other pressing developmental and land needs of households in the community remain largely unaddressed. Clearly, multi-party deals in the context of restitution require a competent and committed authority to oversee contractual negotiations, ensure that they are completed and implemented within a reasonable time frame and monitor the compliance of all parties over the longer term.

Overall, this range of experiences in joint ventures highlights the difficulties faced by communities in obtaining benefits from complex commercial deals and the intensive support required to make them work. Nonetheless, examples such as Zebediela and Makuleke show that much can be achieved if conditions are favourable.

3. Conclusions and policy recommendations

This paper has shown how a wide range of business models are being applied in land reform. The choice of model will clearly depend on a range of factors, and is open to influence by a range of actors, not all of whom necessarily share the consequences.

One set of choices is between individual or group use. Closely related to this is the choice of whether to 'go it alone' (either as a group or as individuals) or to enter into some form of partnership with an external party. Another axis along which a community may position itself runs from 'low-input, low-output' to 'high-input, high-output'. This in turn will be influenced by the type of land asset involved, and the scale of skills and resources available to members to bring their land in to production. It is also important to consider the element of risk, as different options carry different degrees of risk, and poor communities may be better advised to err on the side of caution rather than choose options that might promise higher returns but involve a greater degree of risk.

For new landholders, making the 'right' (or best, or most appropriate or most sustainable) choice can never be a simple process, and will depend on a range of internal and external factors – the differing interests and opinions of members of the group, its internal organisation and coherence, the assets at its disposal, the availability of potential partners, any conditions imposed as part of a Settlement Agreement and so on. What may be appropriate for one community or group may well be highly inappropriate for another. What we can draw from the available evidence, however, is that the processes surrounding the choice and implementation of specific models appear to be often inadequate, so that even where seemingly rational choices are made the results are rarely as expected. Moreover, it would appear that many choices are unduly influenced by external agencies (including the CRLR), whether in promoting 'commercial' models of agriculture or imposing strategic partners in a manner that leaves little room for negotiation and marginalises many of the intended beneficiaries.

At the outset of this paper, it was argued that the concept of business model has two main dimensions: the type of land-use and the socio-economic arrangements associated with it. In order to improve the effectiveness of business models in restitution, both of these dimensions will have to be addressed.

On the one hand, this will require a more effective use of formal business planning. It is clear from the available evidence that the aspirations expressed in settlement agreements, CPI constitutions and business plans are rarely given sufficient attention and follow-up in order to turn them into sustainable enterprises, even where professional planners are employed. This relates, in part, to the complex nature of planning the use of an extensive resource (land) for multiple purposes, and the expected involvement of multiple agencies in provision of support over an extended period. This in turn points to the need for effective project management of the entire settlement planning and implementation process, which clearly is not being played by the CRLR in most restitution cases. The settlement process has proven to be a lengthy one, often exceeding five years, and it is imperative that a single, competent agency be involved to support communities and co-ordinate the contribution of other parties over this period.

While formal business planning processes are important, they must also be in tune with the social and economic realities of claimant communities or landless people. Many communities are made up of predominantly poor people, lacking in business experience, and vary enormously in the level of internal organisation, coherence and leadership. A holistic planning process should work with the community as it actually exists, rather than how it might be imagined as a single, entrepreneurial entity. In addition, adequate attention must be paid during the planning process to building the capacity of community structures over time.

A number of critical areas can be identified that will require attention if more realistic and effective business models are to be developed, as follows:

- Realistic assessment of the needs of community members, including socio-economic status, skills, current livelihood activities and aspirations for the short and longer term.
- Capacity building within communities to develop leadership skills, promote effective and accountable leadership and encourage the widest possible participation in decision-making processes.
- Development of a variety of land-use options, ranging from 'low-risk, low-investment, low-return' to 'high-risk, high-investment, high-return', and including both collective and individual options. Where possible, a number of options should be allowed to co-exist,

allowing for different individuals or sub-groups within communities to proceed in different directions and at different paces, depending on their particular circumstances. This may require a greater separation between landholding entities (for example, CPAs), which represent the interests of all members, and the business entities engaged in various activities that occur on the land.

- Greater attention to the distribution of benefits – including land access, cash income and employment opportunities – particularly within collective models such as strategic partnerships, support for CPIs and external monitoring of distributions within communities over time.

At this point in the history of South Africa's land reform programme, there is clearly a need for a thorough reflection on what has worked and what has not in the post-settlement phase, and what more can be done to ensure that the anticipated benefits flow to the intended beneficiaries. Getting the land-use model right will never be a straightforward process. It needs to be approached in a flexible and creative manner from the earliest stages of the planning process, be proceeded with cautiously and be adapted to changing circumstances and experiential learning. While obtaining the maximum possible benefits for intended beneficiaries should be an ideal, this should not involve exposing people to unacceptable levels of risk or downplaying their stated preferences.

It may also be necessary to seek a greater separation between landholding entities and the activities that occur on the land. Up to now, there has been a widespread assumption that CPIs will control all activities on the land they hold, and

that all members will be equally involved. There is a need to explore ways in which landholding entities can focus more on functions of landownership and distribution of benefits among members, while decentralising operational matters to its members, possibly in various combinations and in partnerships with external parties.

It is not just the gross value of enterprises that is important, but the net value that flows to community members and the manner in which this is distributed among them. Experience from restitution, in particular, demonstrates clearly that single (unitary) solutions may not meet the needs of all members, particularly where large and heterogeneous groups are concerned, and a strong argument can be made for encouraging multiple activities that maximise the involvement of, and benefits to, the greatest possible number of people. Such pluri-activity may be more effective in delivering benefits in the short term – of particular importance to the very poor – so that people are not required to wait excessively for benefits to materialise.

It is not appropriate here to prescribe how specific land reform projects – whether arising from restitution or redistribution – should be structured. The four recommendations set out above, however, offer a starting point, and much further debate and elaboration of proposals will be required both for individual projects and for the policies and institutions that guide the process. More elaborate, risky and capital-intensive ventures – of the kind that are now being attempted within restitution – should not be discounted, but will clearly require a level of external support that has not been evident within the land reform programme to date if they are to deliver the expected benefits.

