



SUBMISSION TO THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

Comments on the Green Paper on Land Reform 2011

25 November 2011

**Institute for Poverty, Land and Agrarian Studies (PLAAS) at the University of
the Western Cape**

INTRODUCTION

This document is a joint submission by researchers at the Institute for Poverty, Land and Agrarian Studies in response to the Green Paper on Land Reform released by the Minister for Rural Development and Land Reform on 30 August 2011. It is a broad response commenting on a range of crucial issues facing land reform in South Africa. It is informed by 15 years of research and policy engagement on the part of PLAAS researchers.

THE GREEN PAPER

As we have indicated in our earlier press release, the document released as a Green Paper by the Department Ministry of Rural Development and Land Reform is a great disappointment.

The Green Paper is the product of a drafting process taking two and a half years. This has been a secretive process in which the South African public has been kept largely in the dark. The Ministry and its Department have shown themselves to be unwilling to learn from their mistakes, and unwilling to consult with civil society, stakeholders and expert opinion. Instead of providing a Green Paper based on an honest assessment of the past fifteen years of policy implementation, it has refused to learn from experience, both from its own mistakes and successes, and from encouraging innovations that are taking place on the ground, often despite inadequate or misguided state policy. Instead it has produced a vague document that develops general recommendations on the basis of general principles. The result is a Green Paper that fails to answer the key policy questions facing land reform in South Africa.

The Questions that a Green Paper should answer

The Green Paper fails to offer any serious proposals for public debate on what the alternatives are to scale up land reform. It avoids all the most important policy questions facing the nation with regards to the future of our countryside, the people who live and work in it, and those (in both rural and urban areas) who depend on what it produces:

- **How can the racial legacy of forced removals be addressed** without increasing racial polarisation?
- **Who should benefit from land reform?** Is this a programme for the poor, with the aim of rural poverty alleviation, (as was the case under the Reconstruction and Development

Programme) or is its purpose to attract black investors into agriculture to create a black commercial farming class (as was the case under Mbeki)?

- **What changes should land reform bring about** in land uses and farm sizes? And what should it leave intact? Is subdivision of farms going to be pursued to make available modest plots in order to promote a smallholder sector? Is the expectation that groups of people should collectively own and manage farms? Is this about transferring whole commercial farms from one individual owner to another? Each of these options has profound implications. Which is it to be?
- **Where should land reform be targeted?** What land should be prioritised for redistribution, and who should determine this? How can priorities be set in participatory ways, by the public in tandem with different spheres of government (especially municipalities) that need to play a role supporting land reform? What are the spatial considerations and where are the priority zones? Are these the high-rainfall areas close to high population densities? Or areas adjacent to the ex-Bantustans where many small farmers lack adequate land and infrastructure?
- **How will land be acquired for redistribution?** Confiscation (as proposed by the ANC Youth League at its congress earlier this year) is not on the cards. But there is a broad range of workable approaches that lie between the extremes of confiscation and the controversial 'willing buyer, willing seller' approach. Is 'willing buyer, willing seller' still to be the major way in which land is acquired, even if the 'willing buyer' is now the state? Will expropriation become a more prominent means of acquiring land for redistribution – or not? Will the state aim to drive down compensation for expropriated properties below market prices, as allowed in the Constitution – or not? When and under what conditions will government opt to expropriate?
- **How can projects be better designed**, to improve on the dismal performance of the programme to date? What agricultural and other support services can be introduced to ensure that redistributed land is well used and improves the livelihoods of beneficiaries as well as surrounding communities? The same Minister who has repeatedly claimed that 90% of his department's projects are failing (a completely unsubstantiated and certainly exaggerated claim), has now unveiled a policy that makes no concrete proposal on how to improve on this less-than-mediocre track record. What will prevent this pattern being perpetuated?
- **How can land reform support sustainable rural livelihoods?** How can the present failures in small farmer support be rectified? How can marginalised farmers be supported into access to competitive markets, and what kinds of markets do they need? How can agro-food systems and commodity chains be governed so that they ensure decent incomes in the countryside – and affordable food for the urban poor?
- **How can tenure rights be secured?** By focusing on the first three tiers of the 'four-tier tenure system', the policy addresses the rights of those who either own or rent property – a small proportion of our population. Farm workers and dwellers, and residents of the ex-Bantustan areas continue to have insecure rights in practice. What is to be done to secure their tenure? What about tenure rights on redistributed land – what rights will beneficiaries have vis-a-vis the state? Is the idea for the state to become the owner of all redistributed land, so that beneficiaries become tenants of the state (as has been the practice since 2006) or for them to get private title to the land allocated to them (as was originally set out in policy)? Or a mix? Which, and why?

- **What mechanisms will address the needs of marginalized groups such as women?** Gender inequalities in land ownership and control have not been adequately addressed to date, and women's land rights tend to be more insecure than that of men. What land reform policies will address women's land needs? What approaches will ensure that the land needs of farm dwellers and young people are addressed?

What the Green Paper says

Some of the proposals advanced in the 'Green Paper' are useful. A Valuer General can bring certainty and clarity around valuations and expropriations processes. The proposal that the state pays just and equitable compensation in cases of expropriation is appropriate and in line with Section 25 of the Bill of Rights in the Constitution.

But for the most part, the Ministry has produced a document that fudges all the important questions.

- It fails to provide an honest analysis of the nature and shortcomings of land reform policy until now.
- No guidance is given as to how the state will acquire land for acquisition.
- No answer is given on the status of the 'willing buyer, willing seller' model.
- No clarity is given as to when, and under what condition, will the state use expropriation as a way to acquire land.
- The four tier tenure system proposed by the Green paper will not solve any of the tenure problems faced by poor and marginalised South Africans.
- No policy justification is given for singling out non-nationals for conditional and curtailed property rights.
- The paper provides no policy direction on how to solve the conflicts around the tenure rights of the two main rural constituencies: the 16 million people residing under communal tenure in the ex-Bantustans and the 3 million farm dwellers living on privately-owned commercial farms.
- No clarity is given on how women's rights to land can be secured.
- The proposal for a Land Management Commission succeeds only in deferring key decisions and outsourcing the Department's functions to a Commission: it is unclear how it will resolve any of the existing problems dogging land reform.
- And no useful guidance is provided as to how the implementation of land reform is to support sustainable livelihoods.

The measures that are proposed – a recapitalization programme, and partnerships with commercial farms – already exist, are implementable only in a few cases and will not resolve the systemic and deep-seated failures of the Government to provide coherent support to smallholder farming.

THE NEED FOR A COHERENT POLICY

By obscuring the future direction of land reform, government has simply failed to make policy. Yet, if this policy-less 'Green Paper' were to be formally adopted as a White Paper it will have real political effects. A policy vacuum will allow land reform to continue along its present path – of slow progress, unsustainable outcomes and elite capture.

The real dangers that come with perpetuating a policy vacuum are well illustrated by the past five years. Official policy – the White Paper from 1997 – has long been overtaken by politics and practice. In the meantime, real decisions are being made every day about how public money will be spent, to buy what land, for whom, for what purpose. *None of this is informed by official policy, and most of it occurs outside public scrutiny.* If the current Green Paper is confirmed in its current form, such rudderless practices will continue.

On the one hand, there has been a political message that delivery must be speeded up, but the implementation drive has occurred without any framing policy about how the pie is to be divided. In this context, the path of least resistance, taken by local-level implementers, becomes de facto policy. These implementers focus on serving what they understand to be their political heads' wishes, and do what they can to please. For the most part this has meant chasing the numbers: pushing up the figures for hectares transferred, and 'picking winners' by favouring certain types of applicants, with scant regard to whether this serves the interests of inclusive growth or poverty reduction.

Since 2006, through the proactive land acquisition strategy (PLAS), government has taken to buying farms and leasing them out. In the process, it has spent just over R3.7 billion buying farms, but much of the land has not been allocated to anyone. Only 397 households were listed as beneficiaries by the middle of last year. This means that vast areas are standing unused, or that a handful of people are getting great windfalls from the national fiscus. No policy either endorses or prohibits such practices. Without any policy to determine who should be prioritised, or how public money should be rationed, it is not even clear whether these practices formally constitute abuse – though they are certainly at odds with the existing White Paper, and contradict the resolution adopted at Polokwane.

The actions of land reform officials need to be guided by a clear framework to which they can be held accountable, and this framework needs to be formally debated in the democratic process, not outsourced to an unaccountable body as proposed by the Green Paper.

This submission sets out key elements of a proposal for such a framework.

KEY ELEMENTS OF A WORKABLE LAND REFORM POLICY

PROBLEM STATEMENT

Colonialism, segregation and apartheid have left a skewed distribution of land, and a legacy of unresolved historical trauma that poses a danger for national unity. In addition, it has laid the groundwork for the development of a highly unequal society, with a skewed pattern of growth.

Some of these linkages are obvious and well understood – for example the poverty created by relegating 30% of our population onto 13% of the land. Indirectly, the rural poverty thus entrenched has ensured the underdevelopment of the rural nonfarm economy and has perpetuated urban poverty. Less well understood but as important has been the distorted development of the commercial sector. This relates not only to market protection and the recent trend to high levels of concentration of farm ownership. It also relates to a normative vision of commercial agriculture, informed by an overemphasis on large scale, high input, technology intensive farming. PLAAS has written extensively about the 'missing middle' between the two poles of food security gardens and big commercial farms: the untapped potential for smallholder farmers who want to produce for their own consumption *and* for a market. Existing policy approaches have failed to create opportunities for such people (Hall, 31 July 2009).

This has had disastrous environmental impacts as well: while overpopulation in the communal areas has contributed to very visible soil erosion, commercial agriculture with its massive use of scarce water resources, plus its overuse of chemical fertilizers, herbicides and pesticides also leaves an unsustainable environmental imprint. This has resulted in the neglect of smallholder farming and a negative evaluation of the importance of subsistence farming. These trends have been exacerbated by the nature of agricultural deregulation. This deregulation, combined with the supermarketization of food systems, has created a harsh and unforgiving climate even for large scale commercial farming. It has been an environment in which commercial farmers have had to 'get big, or get out'. One outcome of this is the massive concentration that has taken place

within the commercial farming sector, with numbers declining from more than 60 000 commercial farming units at the time of the transition to democracy, to less than 40 000 units at present.

Land Reform policy thus far has failed to confront this issue. Proponents of land reform have tended to justify it mainly with reference to the demand for reparative justice. They have tended to neglect its potential contribution to equitable growth and to distributive justice. They have also ignored the large scale economic processes that have been pushing people off the land, and out of agricultural employment – a process of ‘jobless de-agrarianization’ that contributes hugely to unemployment in South Africa. As a result, Land Reform risks being marginalized, and the issues risk being reduced to largely symbolic and emotional issues related to national identity and reparation.

Even supposedly radical demands for speeding up land reform are often still informed by Eurocentric and colonial normative visions of commercial farming that ignores the realities, skills and needs of those making a living on the land. Debates proceed as if the point is simply to give capital intensive, large scale, high input and unsustainable settler agriculture a ‘black’ face. A different vision of land reform is needed – one that highlights its contribution to creating a more equal South Africa, with decent livelihoods for all, and which involves more realistic, more locally appropriate models of development.

A PRO-POOR VISION FOR LAND AND AGRARIAN REFORM

Land reform *can* play a limited role in redressing some of the hurts in the past – mainly through restoration and redress in relation to some instances of dispossession. But beyond the limitations of the Restitution Act, land reform needs to be informed by a vision not only of redress, but also of how it can contribute to *inclusive growth*.

This vision needs to be informed by an analysis of how the skewed distribution of land, and the skewed development of the rural economy as a whole, has contributed to marginalization and poverty in the South African economy. Land reform should tap the potential of smallholder farmers, e.g. the “missing middle”, with policies that enable it to support decent livelihoods.

In addition, land reform should be informed by an understanding of the linkages between the farm and the non-farm economy. Rather than trying to impose top down colonial and normative models on farmers, policies should be sensitive to the real needs, skills, abilities and strategies developed by those making a living from the land, whether they are large scale commercial farmers serving highly competitive formal markets, whether they are commercially oriented smallholder farmers, or whether they are marginalized and jobless people making a living in the town or producing some of their own food in the countryside.

HOW CAN LAND REFORM SUPPORT INCLUSIVE GROWTH?

Land reform is defined as a set of policies and frameworks which govern secure access to and use of land and which seek to restructure inequitable, socially inefficient and unsustainable existing land relations.

It includes the redistribution of land or land rights, as well as reform of the institutional arrangements under which people exercise already existing land rights. These arrangements need to articulate seamlessly with the policies and frameworks for agriculture, water and the environment, as well as those for human settlement planning and rural development. Land reform is not a separate silo but a component of broader policies for development and employment-intensive growth, as envisaged in the New Growth Path Framework document and the National Development Plan.

Land reform cannot provide a one-size fits all solution. It will have to be informed by an understanding of the different needs and situations of the wide range of South Africans whom it needs to serve: from commercial farmers to subsistence producers; from urbanites to the rural poor. These groups cannot be split into a number of discrete and different target groups. Rather, they exist along a continuum, and land reform policies need to be flexible enough to develop a range of locally appropriate solutions and allow beneficiaries to move along that continuum over time (Aliber et al. 2011).

LAND REFORM POLICIES AND INSTRUMENTS

These aims can be met by a number of different programmes or instruments which potential beneficiaries can use to their benefit. Historically in South Africa, land reform has been split into three broad sets of interventions – restitution, redistribution, and tenure reform. This broad categorization of different kinds of land reform intervention is useful, but these programmes need to be implemented by a vision that supports equality, equity, livelihood creation and inclusive growth.

Redistributive Land Reform

Redistributive land reform is aimed at using market and non-market mechanisms to support access to land by marginalized disadvantaged and previously excluded people. This is an expensive process, often highly contentious, especially since it relates to a resource that is in scarce supply.

- 1) Redistributive land reform should be informed by an appreciation that *agricultural land is a national resource, essential to national and household level food security*. Redistribution should support South Africa's ability to meet the food needs of its people. This has three implications.
 - a) Firstly, the *overconcentration of land and power in the hands of agribusiness farms and a small number of powerful land owners does not serve equitable or inclusive growth*. By pushing smaller farmers off the land, and by pushing farm workers out of land-based employment, this contributes to chronic poverty and marginalization. Although it does not preclude net food security for the country as a whole, it contributes to a situation where millions of South Africans cannot afford the food in our supermarkets. Conversely, a viable and healthy smallholder farmer sector can make an important contribution to the creation of livelihoods on the land.
 - b) Secondly, *redistributive land reform is not for everyone*. If agricultural land and water are recognized as scarce resources, and if investment in infrastructure for agriculture is seen as a benefit for national food security, these resources should not be allocated to those who lack the capital or skills to farm it productively. Redistributive land reform should be aimed at supporting those who have the capacity for producing marketable surpluses on a significant scale, while also creating opportunities for self-provisioning by some of the rural poor.
 - c) There needs to be *effective integration between land reform, agricultural policy and water reform*. This does not only mean that there needs to be more coherent approach towards 'post settlement support', which could include targeted and time-bound subsidies to support land reform beneficiaries and commercially oriented smallholders in the former Bantustans. It means agricultural and water reform policy should support the aims of land and agrarian reform. Land and agricultural policy should abandon its narrow and normative assumptions about the supposed efficiency and desirability of large scale, high input technology intensive farming, and its ideological fixation on full-time commercial farming. The Department of Agriculture should allow the subdivision of agricultural land. The Subdivision Act should be scrapped to ease the creation of smaller-scale farms, and new policies and forms of extension should be developed that are appropriate for part time farmers and for those whose livelihoods depend on a portfolio of on-farm and non-farm, formal and informal sector activities. The practice of enforced

'collectivization', in which large numbers of poor claimants are expected to manage a large commercial farming enterprise previously managed by one owner, should be abandoned.

- 2) Land reform *can and should be pursued within the framework of the South African constitution*. There is no need to abandon the protection of property rights enshrined in the constitution: doing so would be destructive of national unity and political stability, and serve no useful end. Talk of 'confiscating' farms is irresponsible and dangerous. At the same time, all parties need to recognize that expropriation is a normal and legitimate tool in the hands of government, as long as it is used in the national interest and in a fair and just matter. Expropriation is available as a tool that can be used when required by the aims and vision for land reform. Just and equitable compensation should be paid to existing land owners, as provided for in the constitution, and government needs to provide guidelines and procedures to reduce uncertainty and implement them when negotiations over price break down.

Tenure Reform for sustainable communities

But land reform should not only be aimed at the relatively small numbers of people who can compete in formal or informal agricultural markets. It should also be aimed at supporting the large numbers of poor and landless people who are relegated to the margins of the South African economy: those who have no or little access to land for subsistence production, no or little employment.

Here, it should be recognized that land reform is not a silver bullet that can make rural or urban poverty disappear. Access to land can only ever be one component of a broader set of solutions and interventions. Land access and land rights, in other words, need to be understood to play a poverty reduction role *as one of a set of policies* supporting sustainable human settlements and communities in South Africa's urban and rural areas.

These communities exist in a wide range of different contexts: from informal settlements around cities and market towns, to villages and homesteads in the former homeland areas, to settlements of workers and landless people living on commercial farms. In each of these contexts, land reform can play a role by promoting land rights that support local livelihood strategies – from access to grazing and farming land in the rural areas, to land for garden plots, allotments and livestock in informal settlements and urban areas.

But for this to work, those human settlements need to be informed by *sensible and realistic spatial planning*. This planning needs to take into account the reality that poor and marginalized people depend on complex livelihood strategies and multiple income streams. It also needs to recognize that poor people need appropriate tenure arrangements.

RESIDENTS ON LAND UNDER CUSTOMARY LAW

The constitution requires the South African government to enact legislation clarifying and recognizing the land rights of people living on customary land. Proposals that this can be done by simply converting existing use rights into freehold title are misinformed and unimplementable. Rather, the legislation should recognize the key role played by communal land as a safety net for poor and marginalized people. It should recognize the importance and value of living customary law as a system for governance and administration of land under customary tenure. It should also safeguard the rights of women and other vulnerable groups. It should ensure that all those living on land under customary tenure do so exercising their full constitutional rights as citizens. Finally, land reform policy should prevent 'elite capture' by small numbers of powerful people, including traditional leaders, of natural resources that belong to rural communities as a whole. This will require measures to ensure the accountability of local-level land administration bodies.

First, legislation should be developed to provide statutory recognition of *existing* occupancy as constituting a real property right, enforceable in law and equivalent in legal status to private ownership (even where these are informal rights that are not registered, and where rights to common land are shared).

Second, the option should be made available to communities within these areas to register their land and to formalise their systems of land allocation and administration, with state support. Registration should not, though, be a precondition for legal recognition of rights. And registration should be available for a wide array of rights, not just for freehold tenure.

Farm Workers and Farm Dwellers

Farm workers and farm dwellers have often been treated as a special case in South African law. Under Apartheid, they were for years excluded from the provisions of legislation protecting other workers by the Masters and Servants Act. After the transition to democracy, farm workers were included in labour legislation, but attempts were also made to address or even fundamentally transform the unequal power relations between workers and farmers through the provision of special legislation granting them strong tenure rights.

This legislation – in particular, the Extension of Tenure Security Act – has been highly contentious and has been argued to have had significant unintended consequences. It probably exacerbated the reduction in permanent and on-farm employment seen in many labour-absorptive sections of South African agriculture, reputedly led to extensive pre-emptive evictions and the destruction of on-farm housing. The reasons for this are debated. Clearly important aspects of ESTA were misunderstood or never implemented; and certainly Government has failed to play its envisaged part in preventing evictions or providing alternative settlement.

But ESTA can also be criticized for depending on an oversimplified analysis of the problem. It did not account for the highly heterogeneous and diverse nature of South Africa's commercially farmed landscape. It often defined farm workers' problems as 'land problems' when their vulnerability stemmed more from the precarious and exploitative nature of their employment. Most importantly, in its implementation, it tended to foment an antagonistic dynamic in which workers and farmers were pitted against one another. In a context where the state was distant and lacked capacity, and where local landowners were the *de facto* source of power, this dynamic was disastrous for farm workers.

Solutions for farm workers' livelihoods need to depend in the first place on *developing laws and policies that can support decent and economically sustainable livelihoods in the large scale commercial agricultural sector*. Within this, secure tenure rights that prevent unjust evictions must continue to play a central role. But policy in respect of farm dwellers cannot pivot only on the prevention of eviction. It needs to be guided by positive frameworks that support long term solutions for farm workers' tenure needs. As in the former Bantustans, these land access rights need to be flexible and locally appropriate. They should allow for the coherence of farm workers' family lives; for the rights of freedom of association and movement of farm workers and farm dwellers; for tenure security for pensioners and retired farm workers; for access to land for productive use by farm workers and for the recognition of the economic realities of commercial farming. It should be recognized that achieving all of these aims will not always be possible, and that difficult trade-offs and compromises will be necessary.

Both on-farm and off-farm settlement solutions are needed. Crucially, policy and legislation should not turn securing farm workers tenure rights into a zero sum game. Government needs to come to the party to make resources available to farm dwellers, workers and farm owners in support of viable settlement solutions for poor people on commercially farmed landscapes. Above all, in the process of consultation around the design of such a framework, government should act to defuse the antagonistic dynamics that can polarize rural civil society.

Urban dwellers in informal settlements

In urban areas, land reform can support sustainable livelihoods by ensuring appropriate forms of tenure and spatial planning that can support poor people's livelihoods. Again, freehold tenure should not be imposed top down as the only or even the most desirable form of land right. Land rights should be flexible enough to accommodate the mobility and migrancy needs of poor people. Urban settlements need to involve sensible and appropriate forms of spatial planning that supports local smallholder agriculture, that facilitates access to local job markets and transport hubs.

RESTITUTION

Restitution has been the most high profile and visible face of land reform. While it is broadly supported, it has been dogged by serious problems. The achievements of the South African restitution programme have mainly been measured in terms of the number of claims settled and people who benefited, and the extent of land restored. The quality of the outcomes remains much more vague, and the 'impact of restitution on social transformation or its contribution to toward fostering national reconciliation, promoting gender equity, stimulating economic activities, and contributing to rural livelihoods' is contested (Walker et al, 2010, 28). The restitution programme has faced countless problems and challenges including the slow pace of claims settlement, and budget constraints which have severely delayed payouts and delivery of settled claims. Restitution cases that involved restoration and redevelopment of urban residential land have been exceptional, yet it is these cases, such as the Port Elizabeth Land and Community Restoration Association (PELCRA) process, that present perhaps the best outcomes of the restitution programme. For the most part, urban claims have been settled with cash compensation that have in real terms related weakly with the value of what was lost or current market value (Walker et al, 2010, 33). Other problems that have plagued rural restitution are a vast number of overlapping claims and community boundaries due to sequenced dispossession; exploitation of the restitution process by opportunists and traditional leaders to extend or reassert their jurisdiction; new dispossessions as a result of arbitrary distinctions between claimants and non-claimants (for example, farm workers whose tenure rights as dispossessed, but not removed from the land after 1913 have in some ways become more precarious); and difficulties attached to the task of reconstituting communities for the sake of 'delivery' (Walker et al, 2010, 35). A major failure in especially rural restitution has been the limited resources that have been devoted to sensible local development planning, to ensure that restitution enables beneficiaries to improve their livelihoods, aside from just acquiring rights to land.

Pressure on the Department to re-open the restitution claims process should be resisted. The original restitution policy framework provided claimants with a well publicized opportunity to lodge claims, and it is unlikely that significant numbers of large and valid claims have been excluded. Re-opening the claims process is likely to increase uncertainty for current right holders. It is highly likely that large numbers of opportunistic claims will be lodged, validating which will consume large amounts of scarce resources. The DRDLR and the Commission on the Restitution of Land Rights have struggled to make any real headway with many of the existing claims. Burying them under a new flood of claims is likely to be counter-productive. In areas where there are many overlapping claims to land, this is likely to result in settled claims being reopened and existing processes of negotiation going off the rails. The department should avoid seeking short term political gains that turn into long-term development headaches.

PLANNING AND IMPLEMENTING LAND REFORM

The development of alternatives to the current market-based, highly centralized approach to land reform planning and implementation, including the identification and acquisition of land for redistribution and provision of settlement support services is crucial. The use of area-based plans to locate planning and support needs in a clear spatial and fiscal framework within municipal Integrated Development Plans is a key feature of the Settlement and Implementation Support

(SIS) Strategy for Land and Agrarian Reform in South Africa (Sustainable Development Consortium, 2007).

Our recommendation, in line with the evidence and proposals put forward in the SIS Strategy, is a much more proactive, needs based approach to land reform that is framed by national spatial policy directives, but driven by local and municipal government and stakeholders. Local needs based participatory planning can support land reform that is appropriate to local needs and which targets priority groups (Hall, 2009, 66, 67). A move away from the ad hoc, project-by-project manner in which land and beneficiaries have been targeted through the market-based approach would enable acquiring and allocating land at scale where whole blocks of properties in areas of high demand can be redistributed. Especially in areas surrounding rural towns and around the edges of the communal areas (Aliber & Mokoena, 2004) block purchases would ease coherent provision of infrastructure appropriate to new land users and uses, and would reduce planning costs, including those of land surveyors and conveyancers in the case of private land. Crucially, a needs-based area-based planning approach would allow for economies of scale to emerge and be strengthened (Hall, 2009, 67), so that the transfer of land from previous to new owners becomes about more than just a change of ownership, but it can drive employment and livelihoods creation, and inclusive growth and development in targeted areas, supported by relevant infrastructure development and extension support for different kinds and scales of farming, with a suitable tenure or title arrangement, that makes sense in the particular economical, social and geographic environment.

This approach depends entirely and fundamentally on proper assessment and identification of land needs of those people who are already living in the area in which land reform is being proactively planned. Engagement with these people, in a way that is participatory and avoids top-down imposition of pre-conceived notions of what is needed to ensure rural development and successful land reform, but rather builds on current and potential livelihood opportunities and activities, brought on by for example local markets or new settlement developments, can transform the lives of large numbers of people through land and agrarian reform initiatives who would otherwise remain excluded. Some of these groups that have so far been kept out of the loop of land reform, but who have quite evident and urgent need for land, are evicted farm workers and dwellers and the landless or near landless in the overcrowded former Bantustans. Although it is clear that more sophisticated mechanisms are required to understand at a local level what land is needed by what groups of people, land in the vicinity of these former Bantustan areas, or along the borders, must be a priority area to target for proactive land reform.

Even though Area Based Planning, which attempts to include land reform in Integrated Development Plans (IDPs) at municipal level has been rolled out in some municipalities, participatory methodologies for the assessment of local land needs have barely been used. Some suggestions for land need assessment at a local level are: the identification of categories of people with objective land needs; participatory planning with identified groups of people (e.g. small-scale farmer associations, commonage users, farm dwellers under threat of eviction); public meetings; attitudinal surveys; and local land boards to assess needs and integrate acquisition of land with allocation and provision of relevant agricultural (and non-agricultural) development services (Hall, 2009, 67).

Several means of identifying needs, through participatory processes have been tried and tested on the ground, often driven by local NGOs. There is a wealth of experience and information available from these innovative projects, and it is essential that government learns from the challenges and triumphs that have come up in the process of implementation, in order to improve its practice.

Not only must government draw lessons from what land reform successes and innovations exist on the ground, it is also imperative that it learns from the evidence and insights emerging from its own research and experience. Monitoring and evaluation of land reform implementation can be

improved on the one hand, but without proper mechanisms to ensure that information that exists, and that has been compiled to inform coherent evidence-based strategies, such as the SIS Strategy, such undertakings will remain without effect.

CONCLUSION

Based on an assessment of the little content that the Green Paper features, and of its enormous content gaps, this submission recommends that *the Department jettisons the present Green Paper in its entirety, goes back to the drawing board and seeks to develop sensible and coherent answers to pressing policy questions in consultation with all the stakeholders and role players involved.*

This submission has attempted to chart some outlines for proposals that could be made in a fundamentally revised Green Paper, that would, at minimum, seek to pursue a vision for a land reform that is not just more effective, more efficient and of which the mechanisms are sound, but which also achieves significant change for a large number of people who have remained poor and marginalized in present-day South African society, just as they were in the apartheid days.

This Comment is being submitted to the Department for Rural Development and Land Reform on 25 November 2011. It is signed by researchers of the Institute for Poverty, Land and Agrarian Studies:

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