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Land reform in southern Africa

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Introduction

The rains came late this summer (2003/04) in southern Africa, provoking fears of drought. Meanwhile, the population that is dependent on food aid shows no sign of declining in numbers.

The vagaries of the weather and inequalities in access to land for crops and other forms of production are constant topics of concern for southern Africa's people. In particular, the 'land question' – the question of ownership of and access to land – continues to be one of the most profound social issues still to be addressed in a definitive manner by countries in southern Africa. (In this paper, southern Africa comprises Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.)

Rooted in colonial history, the 'land question' has been deeply embedded in the politics and economics of the region. Land ownership has conferred significant economic and political power to the ruling elites over the centuries and decades. Landlessness and diminishing access to land reflect deeply rooted social inequalities.

The history of land dispossession became a resonant factor in the liberation struggles waged in the region from the 1960s to 1990s. The vision of land repossession was a potent tool in the mobilisation of blacks into the ranks of the nationalist and liberation movements. However, instituting land reform after gaining independence would prove to be neither a simple nor smooth process.

This paper examines the progress of post-independence land reform in southern Africa. It assesses the framework in which countries have sought to design and implement land reform, and the choices and constraints that they have contended with. Approaches to land reform have varied from a cautious and gradual process in countries such as Namibia and South Africa to the rapid and turbulent 'fast track' programme in Zimbabwe, and to the design of new land policies in Mozambique, Malawi and Zambia. How have the various social groups – from small communal to large-scale farmers, from farm workers to the landless – fared under these different land reform experiences? To what extent have women been accommodated in land reform programmes? What are the implications of the HIV and AIDS epidemic for the land reform process? And what is the way forward for land reform in southern Africa?

Historical background and structural context

The colonial legacy

The land crisis that erupted in Zimbabwe in 2000 sent reverberations throughout the southern Africa region and beyond. It put the spotlight on issues of historical rights to land and redress, as well as transmitting a 'wake up call' to neighbouring countries that have been slow in instituting reform.

The roots of the 'land question' lie deep in the history of the countries of southern Africa. Although the scale of dispossession varied, there was a common experience of land expropriation in most countries in the region. The process of expropriation was mainly effected through war and conquest.

In the white-settler colonies, this expropriation culminated in a more or less permanent division of land along racial lines. In South Africa the expropriation process began after the arrival of the first batch of colonists in 1652, while in Namibia and Zimbabwe it occurred much later, in the closing decade of the 19th century. The racially determined ownership of land was entrenched in the early 20th century by legislation such as the Native Land Act of 1913 in South Africa, the Land Apportionment Act of 1930 in Zimbabwe and the Land Settlement Proclamation of 1920 in Namibia. Indigenous small farmers were confined to infertile and drier land with little or no infrastructure and services.

By the middle of the 20th century, the distinctive patterns of white commercial farming and communal agriculture were clear. White commercial farmers enjoyed freehold tenure while most communal farmers owned their land on the basis of customary law. The different racial groups therefore experienced different levels of tenure security. But it was the differential scale of land ownership which exposed and buttressed inequalities between the colonists and the colonised. For example, in Namibia and Zimbabwe, half of the agricultural/arable land was set aside for white farmers, while in South Africa some 87 per cent of total land was transferred to white ownership with the diminished remainder allocated to the African majority (Adams, Werner and Vale, 1990; Adams, 2003).

In the early stages of colonial settlement, labour shortages were endemic. Tax laws were used to compel black peasants to seek employment on white enterprises, while land evictions undermined people's capacity for sustainable and self-sufficient livelihoods. The large-scale dispossession of land from blacks was thus intended to ensure the availability of cheap labour as well as to provide white settlers with land. A labour migration system grew up, through which many workers for farms, plantations and mines in South Africa and Zimbabwe came from the colonies of Malawi, Zambia, Lesotho, Mozambique and Swaziland (Patton, 1995; Manghezi, 1998). This circulatory migration system recruited mainly able-bodied young males, leaving women behind to bear an extra burden in peasant agriculture, and having long term consequences for household structures and livelihoods.

Land settlements after independence

Countries in southern Africa attained independence in different phases. Among those achieving independence in the 1960s, in Malawi and Zambia there had been no large-scale dispossession of land to generate a contentious 'land question', while in Botswana, Lesotho and Swaziland the 'land question' did not take the acute racial dimension that was the case in their neighbours. Elsewhere, it was a different story, and independence came the harder way.

Protracted liberation struggles were fought in the Lusophone states (Angola and Mozambique) from the late 1960s to 1975 when they gained independence from Portugal. In both countries, the installation of socialist-oriented governments was accompanied by a wholesale exodus of white settlers including farm and plantation owners. The nationalisation of land by the new states removed rights to private freehold ownership, but protracted civil wars from the mid-1970s to 1992 (in the case of Mozambique) and until 2002 (in Angola's case) postponed the further addressing of the land question.

The last set of countries to attain independence was Zimbabwe (in 1980), Namibia (in 1990) and South Africa, which made the transition to democracy in 1994. These were also the countries that experienced the most contentious negotiations over the land issue. This was not coincidental: their African population had experienced a greater scale of dispossession. The commercial farming lobby enhanced by the substantial strategic role played by white farmers

was strong in these territories. The farmers had considerable influence in the white governments negotiating the terms of transfer of power to the new African governments. It was scarcely surprising that the land issue was a highly contested aspect of the negotiated settlements in Zimbabwe, Namibia and South Africa. The content of the settlements determined the framework and pace of land reform in these countries.

Under these settlements, the overall framework in which reform would take place was one in which 'market forces' were accorded a prominent, if not determining, role. In Zimbabwe, for example, the new constitution entitled the government to acquire under-utilised land for resettlement, but only on condition of prompt and adequate compensation under the principle of 'willing buyer, willing seller'. This effectively limited the new government to purchasing only the limited and often poor quality land that was voluntarily offered for sale to it (Cliffe and Stoneman, 1989). In Namibia and South Africa, compensation was also required for expropriated land.

What is 'land reform'?

What constitutes land reform? How did the states that experienced the 'land question' define the framework for their land reform? What are the factors that have shaped the debate on land reform in these countries?

Land reform relates to substantial changes in the ownership and control of land in order to lessen land-based inequalities. It often takes the form of redistribution of land rights for the benefit of the landless and poor such as tenants and farm workers, and to small or communal farmers whose tenure and livelihoods are insecure. This may be due to the fact that they have no land or are eking a precarious existence on congested land. The scope of land reform varies: it can be narrow or broad, limited or radical. Its scope includes:

- direct state intervention in the land market
- inducements or market-related incentives that lead to the creation of new property rights or restructuring of existing property structures
- land tenure reform which involves change in terms and conditions on which land is held, utilised and transacted (Adams, 2003).

However, land redistribution that is not accompanied by a host of support services such as credit, extension (agricultural advice), and marketing as well as infrastructure provision is unlikely to be sustainable in the long run. Thus the allocation of land is a *necessary* but *insufficient* condition for successful land reform. During the first but slower phase of reform in Zimbabwe in the 1980s there were attempts to combine redistribution with the requisite back-up support, but this was not the case during the second and hastily-implemented fast track phase between 2000 and 2003. The different outcomes of the two programmes were an eloquent reminder of the significance and indispensability of consensus and planning in land reform. With about half of the population (about six million) dependent on food aid in 2004, it is common knowledge that food security and the viability of agriculture have been undermined considerably as a consequence of the fast track programme.

Not all states have confined land reform to redistribution. In many, there has been some commitment and movement towards tenure reform. If implemented, this will represent a major development in land policy. In South Africa, for example, the government has sought to develop laws which reinstate the interests in land that were undermined under apartheid laws, and address the dispossession and exploitation of Africans living on commercial farms and other properties.

Effective tenure reform is an important safeguard against creating land-related and income inequality problems in the future. In Botswana, there has been a longstanding policy, where 'tribal' land is insufficient to meet community needs, of converting freehold land into communal land. The land purchased by government is re-classified as tribal land and handed over to the local land board to add to communal grazing or to allocate to citizens through customary land grants or common law leases (Informal Think Tank Group, 2003a).

The needs and interests of women tend to be overlooked in land reform, reinforcing women's historical and contemporary disadvantages of marginalisation, vulnerability and poverty. In most countries in the region, women have fewer land rights than men under customary law. Until gender issues are taken seriously by land reform programmes, these disparities will persist.

The impact of globalisation

In the 1980s and 1990s, the process of globalisation encompassed a restructuring of production and international division of labour from which countries in southern Africa could not escape. Even those countries that did not implement structural adjustment policies and related austerity measures nonetheless instituted home-grown stabilisation measures that often had similar social effects.

It has been argued, for instance, that in sub-Saharan Africa the fragmentation and employment insecurity of labour has led to declining real incomes for the majority of people. Moreover, in conditions where the risks of farming have increased while its returns have decreased, a growing proportion of rural incomes are now derived from activities other than farming (Bernstein, 2003).

The crisis of deteriorating livelihoods has also affected formal sector workers and the middle classes, leading to greater pressure on resources, including land. To this extent, the 'land question' has become much broader than simply an issue of access to land for agricultural activities. It now encompasses the quest for land for housing (particularly in South Africa and Zimbabwe but also in Botswana) and for small-scale industrial activities and other purposes. As has been pointed out:

People want land in rural and urban areas for a variety of purposes. They want somewhere to live; they want land to grow food to eat and to sell; they want a place to keep chicken and goats, to provide grazing for sheep and cattle; they want a place to return to, and land they can rent, sell and pass on to their heirs. People will change the ways in which they use land as circumstances change, and in different ways from one another. They will not all give priority to production of crops or stock for the market. (Murray and Williams, 1994)

Some analysts have even gone further to re-define the 'land question' as 'an agrarian question of labour' (Bernstein, 2003). The combination of the 'hoe and wage' (workers' dependence on land access and crop-related income as well as on wage-labour) has been a strong feature of the labour migration system in southern Africa. In such a context, the conventional distinction between 'urban' and 'rural', 'worker' and 'farmer' is blurred. With access to land

continuing to be indispensable for survival for many social classes, it is scarcely surprising that contemporary struggles for land in southern Africa are not confined to peasants. The social base of the 'land hungry' includes the landless, women, farm workers, industrial and urban-based workers, retrenched mineworkers, liberation 'war veterans', and even the middle classes (Marongwe, 2002; Hart, 2002).

The influence of commercial farmers

Most countries have to contend with pressure from various lobbies over land reform and land policies. Large-scale commercial farmers are one of the better-organised of such groups. They own most of the land that the state would target for redistribution, and their aim is to protect their property under the 'rule of law': continued entitlement to their land where or if they wish to continue farming, and just compensation for property earmarked for sale. These large-scale commercial farmers have the organisational and technical capacity to articulate their interests in the national media and negotiate terms of land reform with an incumbent government. Until the politically-charged fast track programme was launched in 2000, the Commercial Farmers Union (CFU) in Zimbabwe wielded considerable influence over land policy. In Namibia and South Africa, the organisations representing commercial farmers still have such influence.

The lobby of commercial farmers and related elite interests tends to rely on arguments about the importance of maintaining and improving food production, of earning export revenue, of sustaining farm employment, and environmental management (Informal Think Tank Group, 2003a). This feeds into the public debate in the media and elsewhere about the purpose of land reform, especially whether the focus should be on land redistribution for the landless and the poor or for fewer people 'who have the potential to contribute to economic and national prosperity'. In sum, this resonant debate is between those who believe that land reform should involve redistribution of land in favour of the rural poor, and those who wish the reform to focus on measures to raise agricultural productivity and create a new class of African commercial farmers without unduly threatening the interests of white farmers.

Small farmers, farm workers, women and the landless are often marginalised in this debate, and therefore in the design of land reform programmes. However, since their votes are a considerable

political asset, during elections some lip service is paid to land issues by political parties. This political cycle acts as a constraint on consistent land policies and reform in most countries in the region.

The constraint of 'market price'

Where there is political will for reform, the toughest constraint on land reform has been the principle of 'willing buyer, willing seller'. Resource constraints have been a major obstacle to the purchase by governments of land for redistribution, while the 'willing seller' side of the equation makes it an immediate obstacle to any form of systematic designation of land for redistribution. In South Africa, a typical response from farmers is: 'I will not leave my farm if I don't get full market value for it' (*Mail and Guardian*, 8 August 2003).

Indeed, how to determine the 'right market price' is a major problem – often leading to a situation of 'unwilling buyer, unwilling seller'! Clearly, this principle has hamstrung governments in implementing land reform, especially where there might have been economies of scale in purchasing clusters of farms close to congested communal areas.

Furthermore, there is often a trend for land prices to rise with time. The longer land reform is delayed, the more expensive it becomes. The budget outlays of governments, including relatively richer ones like South Africa, are consistently inadequate for substantial land purchase. For instance, in Namibia, the government would require about US\$133 million to acquire land projected for redistribution over a five-year period. Clearly, budgetary constraints are a source of great frustration for governments.

Piecemeal approaches to land reform

However, not all constraints relate to resources and the legislative or constitutional framework. Some are intrinsic to the policy process itself. Land reform has been constrained partly because it has not been integrated into a wider national development strategy. Where land reform has been successful, as in east Asia, it has often been part of such a strategy. Land reform that is piecemeal and disconnected from a wider development strategy is bound to generate limited returns or falter.

In east Asia, the strategy aimed broadly at reducing poverty, especially rural poverty, and at providing propitious conditions for

an economic 'take off' that embraced and supported industrialisation. In Taiwan, Korea and China especially, agricultural extension services, provision of reasonably good infrastructure and heavy investments in rural areas were important contributory factors to that 'take off'. The increase in agricultural productivity was seen as an effect and stimulant of a wider industrialisation process.

Almost all land reform documents pay homage to objectives of poverty reduction, equity, employment creation and land tenure change. For example, the South African land reform programme sought to 'reduce overcrowding in the former homeland areas and expand opportunities for rural people, and improve nutrition and income for those who choose to farm, and thus reduce poverty among rural households' (South African Ministry of Agriculture and Land Affairs, 2000). The initial Zimbabwe reform programme aimed to 'reduce poverty among rural households and farm workers, and to achieve domestic food self-sufficiency' (Zimbabwe Government, 1998). Laudable as these objectives may be, they have not, unlike in east Asia, been integrated into comprehensive development strategies that link land redistribution with provision of the necessary infrastructure, services and inputs to make the land productive and farm-based livelihoods sustainable.

The challenge is to ensure that beneficiaries of land reform have access to necessary inputs for working the land, such as credit, seeds and fertilisers, as well as to agricultural extension services (providing advice on crop husbandry and farming techniques). These will improve productivity. The beneficiaries of land reform should also have access to places to market and sell their produce. The ability to generate an income from the land should be complemented by an improved infrastructure of local schools, health clinics and 'growth points' consisting of small businesses including retail shops and repair shops, to provide the opportunity for broader improvements in the local economy.

In short, the big challenge remains for governments to integrate land reform and policy into a broad rural development strategy in the context of a wider social and development vision.

Experiences of land reform: opportunities and obstacles

It would be misleading to give the impression that land reform has been confined to the former white-settler states of Namibia, South Africa and Zimbabwe. Although the scope of the 'land question' in particular countries varies because the region is not homogeneous, and the dynamics of reform differ from country to country, land shortage and declining productivity are common worries.

Tenure reform

Some progress has been achieved with tenure reform in several countries. For example, although Botswana inherited a dual system of statutory and customary tenure at independence, it has developed a robust land administration which has greatly contributed to good governance and economic progress. It has adapted its land administration, based on customary rights and values, to the land needs of a rapidly urbanising and expanding population (Informal Think Tank Group, 2003a).

Other countries that have made notable strides in the design and implementation of new land policies include Malawi and Mozambique (Informal Think Tank Group, 2003a). In Malawi, the new land policy published in 2002 clarifies and strengthens customary land rights and formalises the role of traditional authorities in the administration of customary land, which covers 80 per cent of the country. The policy provides for all customary land to be registered and protected against arbitrary conversion to public land. It encourages customary landholders (entire communities, families or individuals) to register their holdings as private customary estates in ways that preserve the advantages of customary ownership while ensuring security of tenure. However, the policy appears to be weak on the definition and enforcement of the land rights of women and orphans and has been criticised for this shortcoming.

Mozambique's Land Law of 1997, drawn up after extensive research and consultation, retained the principle that land is the property of the state and cannot be sold or mortgaged. Thus the state and its agents are the only bodies able to authorise a Land Use Right.

However, this right can be privately held, and is inheritable and transferable between third parties. The legal framework covers a range of different tenure systems, including customary land allocation: indeed, the law restores all pre-colonial customarily acquired land rights.

The Mozambique land policy recognises private investment as essential for initiating rural development, and thus allows new investors to request a Land Use Right anywhere in the country. However, the policy also requires that the local population is consulted and agrees to the state allocating what is effectively 'their land' to the investor. The Mozambique land policy therefore provides an innovative framework for decentralised rural development and poverty alleviation. Land policy that is crafted through a process of wide consultation with the target population stands a greater chance of legitimacy and compliance.

In Angola, the legacy of a long drawn-out civil war means that land reform will need to cater for more than two million internally displaced people and for refugees who have returned from neighbouring countries. Following the Mozambique example, civil society in Angola has called for wide consultation on a draft land law, and for the Angolan government to develop an equitable, consistent and transparent land use policy that balances the interests of agribusiness and small farmers, and avoids a stereotypical situation in which coastal elites own most of the land in the interior.

Land restitution and redistribution

Despite the above examples, rightly or wrongly it is the trajectory of land reform in Namibia, South Africa and Zimbabwe that has evoked greater interest and concern. Of these, land reform in Namibia and South Africa has so far moved at a glacial pace.

South Africa's programme rests on the three legs of land tenure reform, land restitution, and land redistribution. Land restitution is an innovative aspect that has not been attempted in either Namibia or Zimbabwe. It entails communities or individuals who had their land expropriated under the 1913 Land Act and during apartheid making claims for restitution. Restitution can take the form of:

- restitution of land from which claimants were dispossessed
- provision of alternative land
- payment of compensation

- alternative relief comprising a combination of the above, or
- priority access to government housing and land development programmes (cited in Adams, 2003).

By September 2003, just over half of the total of about 80,000 claims for restitution had been resolved, most of them by payment of compensation. Many of the outstanding cases involve rural land claims. In view of the backlog, the deadline set by president Mbeki for settlement of all claims by 2005 is unlikely to be met. The failure to make substantial headway in resolving the large number of outstanding rural claims is a source of growing concern because this is where grievances are likely to spill into violence. Up to 1,600 white farmers and farm dwellers have died in farm-related violence since 1994 (although some of the violence is crime-related and not necessarily related to land grievances).

Similarly, progress on another major component of South Africa's land reform, redistribution, has been slow. In 1994, the objective was to redistribute some 30 per cent of white-owned commercial farmland within five years. The time framework was, however, later extended to 2015 – by which time, if the current pace continues, less than five per cent of the land will have been redistributed (*Mail and Guardian*, 5 September 2003; Walker, 2003). Resource constraints and adherence to the 'willing buyer, willing seller' principle partly explain the gradual pace of redistribution. The political commitment of the government to redistribution has also been doubted by some analysts (Cousins and Lahiff, 2001; Walker, 2003).

Fast track land reform in Zimbabwe

The land reform process launched in Zimbabwe in 2000 in an unprecedented, comprehensive but turbulent fashion raised the stakes in the land debate in the region and beyond. Yet in the preceding two decades, the shape and pace of land reform in Zimbabwe had shared features of that currently underway in Namibia and South Africa. The country actually underwent a first phase of systematic, orderly land reform, albeit at a slow pace.

The main objectives of this first phase of land reform in Zimbabwe in the 1980s were to address unequal and inequitable land ownership, insecurity of tenure and unsustainable and sub-optimal land use (Zimbabwe Government, 1998). Although the independence settlement limited the government's room for manoeuvre in

addressing the land issue, some land was redistributed to the landless and to small farmers from congested communal areas. Several evaluations of the resettlement schemes created under this slow but orderly programme concluded that positive results were attained (see ODA, 1996; Kinsey, 2001), principally because redistribution proceeded in tandem with post-transfer provision of infrastructure, inputs such as credit and seeds, and services such as extension. By 1997, the Zimbabwe government had acquired about 3.4 million hectares on which it had resettled 71,000 families mainly from communal lands. However, this did not assuage the intense demand for land especially among the poor in congested communal lands. In a dramatic manifestation of deepening land hunger in the late 1990s, there were spontaneous but largely temporary occupations by small farmers of adjacent large-scale farms in some parts of the country.

Although the focus of Zimbabwe's approach continued to be largely on redistribution, there was a shift in the 1990s to a conscious policy to encourage the formation of a class of large-scale black commercial farmers (see Zimbabwe Ministry of Agriculture, 1990; Zimbabwe Government, 1998). This was in the context of a growing movement for black economic empowerment and of economic liberalisation (under structural adjustment). The financial cost of purchase of farms for a new black landed elite was high in the open market in the 1990s. However, there were several harbingers of things to come. The government granted leases for state land to members of the elite drawn from senior government, the army and ruling party ranks in circumstances that were not transparent. Among the then 500 black commercial farmers some had access to this state land, and others to privately purchased land. When the 2000 fast track land reform programme was launched, one of its understated objectives was to acquire more land for this aspirant black agrarian bourgeoisie.

The electoral factor loomed large in the Zimbabwe government's decision to launch the fast track programme in early 2000 before the June elections of that year (see Sachikonye, 2003). The rural vote was contested through intimidation, violence and general lawlessness as commercial farms were 'invaded' and 'occupied'. From an initial target to acquire five million hectares over five years, the programme snowballed to 11 million hectares within two years. Prior to the programme, 30 per cent of land in Zimbabwe was held by large-scale

commercial farmers. By 2003, that figure was down to six per cent, with the expropriated land distributed to or earmarked for small farmers or large-scale black farmers (Zimbabwe Government, 2003).

Zimbabwe's second-phase programme is a clear instance of land reform that ran into huge trouble largely owing to the *manner* in which it was implemented: chaotically, with considerable coercion and violence (Sachikonye, 2003; UNDP, 2002; Buckle, 2001). The negative effects such as job losses, production declines in some commodities of up to 40 per cent, export earning losses and food insecurity will be felt for many years.

The downside of rapid land reform is that it can easily degenerate into land grabbing and haphazard settlement without order and planning. In Zimbabwe, for instance, there was little planning and provision of infrastructure such as roads and service centres to provide health facilities and education for small farmer households. Newly settled farmers have had problems accessing basic inputs such as credit, seed and fertilisers. The implications of the fast track phase have also been negative for most farm workers who lost jobs and therefore regular income. Enormous resources will be required to salvage Zimbabwe's land reform (UNDP, 2002).

The cyclical element in land reform

While the approaches to land reform and its pace may have varied across the region, one common thread is what has been termed a 'cyclical element'. Typically, at independence or at election time, there is a strong political commitment to land reform, especially land redistribution or confirmation of the land rights of local people. However, this tends to be followed by a switch of emphasis to so-called 'economic priorities' rather than a consistent commitment to the eradication of landlessness and poverty. The 'land question' is a potent election issue that politicians cannot afford to ignore; but once the elections are over (and won), there is inactivity and less rhetoric as the cycle starts again. (Witness the timing of the introduction of new communal land legislation at the start of the 2004 election campaign in South Africa.) If there is a lesson that accompanies the 'cycle', it is that delayed land reform gives rise to enormous pressures that include land invasions in rural and peri-urban areas – pressures that a government may not be able to control fully.

People and land reform

Small farmers

The largest group with a direct stake in land reform is, of course, that consisting of small farmers. They have been variously called 'rural dwellers', 'communal farmers', 'peasants' and 'smallholders'.

Whatever term is used to describe them, they constitute a significant section of the population in the region that depends on eking a living from the land; in most countries, they also constitute the bulk of the poor (SADC, 2000; ZHDR, 1998).

However, land reform programmes should not be premised on the assumption that small farmers are a homogeneous group or that they derive their livelihoods solely from land. The situation is more dynamic and complicated than this. Small farmers produce crops for subsistence and for sale but also engage in informal trade, production of craft items and in wage-labour to supplement their incomes. In some instances, they engage in pursuits such as fishing and hunting, gold panning and other types of mining, trade in fuel and timber, and production of construction materials such as bricks and grass thatch. Wage remittances from members of households working on farms, in mines and towns are important for their consumption and production needs. Thus there is now no single reliance on agriculture or livestock as a source of livelihood but a simultaneous pursuit of diverse activities.

The diversification of rural livelihoods to include substantial proportions of non-farm income is changing the agrarian way of life – a lifestyle that traditionally combined subsistence and petty commodity production with an internal social organisation based on family labour and community settlement (Swift and Hamilton, 2001). Another consequence is the effect on long-standing gender divisions of labour: women play an increasing role in farming, seek other non-agricultural sources of income, and assume greater responsibilities in rural households.

Land reform programmes should be innovative enough to ensure sustainable livelihoods for small farmers; they need to focus not just on crop and livestock production but facilitate small farmers' participation in a range of economic activities such as, for example, eco-tourism and small craft industries.

The landless

A fast-growing social group in some of the countries in the region is that of the landless, consisting of the deprived and poor in both rural and urban areas. It is not only land for agricultural production that they do not have access to. The landless do not have land in urban and peri-urban areas on which to build or rent housing, or operate economic activities of their own. The landless are the product of intensifying demographic pressures in rural areas, retrenchment or eviction of farm workers from farms and plantations, and significant migration flows into towns and cities. Indeed a Landless People's Movement has been founded in South Africa to articulate the voice and demands of this under-privileged and swelling social group.

It is from amongst the landless that participants have been drawn for land invasions in peri-urban areas of Harare in Zimbabwe, and attempted invasions around Johannesburg in South Africa (see Marongwe, 2002 on Zimbabwe's landless). However, it would be naive to assume that those who participate in land invasions are limited to the landless or jobless, and those without any other source of livelihood. Some participants are clearly opportunists or entrepreneurs who would like to own a piece of land with which to supplement an income through production, renting out or speculation.

Farm workers

Although farm workers are found in all the countries in the region, they are concentrated in Namibia, South Africa and Zimbabwe. In 2000, there were about 900,000 farm workers in South Africa, 320,000 in Zimbabwe and 35,000 in Namibia. They formed a significant proportion of workers engaged in the formal sector of the economy.

To what extent have farm workers been engaged in the land reform process? What has been the impact of land reform on their livelihoods? These are pertinent questions to raise given the flamboyant rhetoric that often accompanies official statements about land reform. Despite the rhetoric, farm workers have rarely been beneficiaries of land reform; they have not been integrated in the process to any meaningful degree (see Magaramombe, 2001).

In the past, farm workers have been a relatively weakly organised social force, often conditioned by the quasi-paternalistic

arrangements that historically governed their relations with employers (Rutherford, 2001; Du Toit, 1994). However, in the February 2000 referendum in Zimbabwe on a draft constitution, many farm workers backed the opposition Movement for Democratic Change in opposing the draft. In the subsequent land invasions, they were penalised for that by the government. It has been estimated that less than five per cent of farm workers were provided with land in the Zimbabwean reform programme. Even so, a government review dismissed the land and welfare needs of the workers, despite about 200,000 – two-thirds of the original workforce – losing jobs as a result of the eviction of 90 per cent of white commercial farmers (Zimbabwe Government, 2003).

In those few instances where farm workers have been allocated land under reform programmes, it has been predominantly male workers who have received it. A gender-sensitive programme would give equal access to land to female farm workers, especially those who are widowed or divorced – the poorest group among farm workers.

The citizenship rights of farm workers have been ignored for many years. This stems partly from the fact that up to 25 per cent of farm workers are migrants or descendants of migrant workers recruited from countries such as Malawi and Mozambique. Under land reform, they have not been provided access to land nor alternative employment opportunities and social safety nets. A considerable number of them have become destitute and drifted into squatter camps where they lead precarious livelihoods. There has been an element of xenophobia within political circles against migrant workers including farm workers. It remains to be seen whether such new citizenship laws as the one passed in Zimbabwe in 2003 will extend full citizenship rights to them, and provide them with entitlement to land access.

Farm workers continue to experience the poorest wages and working conditions in countries in the region. They have insecure tenure on the farms on which they work to the extent that they lose access to housing when they lose or leave employment. There has been no consistent enforcement of legislation, such as the Extension of Security of Tenure Act in South Africa, that provides them with tenure rights.

Nevertheless, farm workers continue to press for the recognition of

their labour and social rights. Farm worker unions have participated in campaigns for the integration of farm workers into the land reform process. Some farm workers have gone further and joined the Landless People's Movement in South Africa, while in Namibia they have pressed for entitlement to land after eviction. In the latter case, farm workers pressed the government in early 2004 to acquire land for their settlement, and the government appeared to be taking notice.

White commercial farmers

The land reform process in southern Africa is commonly perceived outside the region as the dispossession of an important and successful set of modern producers, the white commercial farmers. White farmers, most of whom were based in the former white-settler states, have been predominant in the production of commercial crops such as tobacco, cotton and flowers, and food products such as maize, wheat and beef. An innovative set of producers, they have also successfully ventured into horticulture, safari ranching and tourism during the past decade. However, at the height of their operations they did not number more than 6,500 each respectively in Namibia and Zimbabwe, and 50,000 in the larger and more densely populated South Africa (where they occupied 87 per cent of the land and operated a wide scale of farming from livestock farming to wine production). Through their ownership of land, they wielded significant economic power, and before independence, considerable political power and privilege.

Historically, no powerful social group gives up its power and privilege easily or willingly. White commercial farmers in southern Africa have been no exception. While some have recognised the need for land reform, the majority have stuck to the rigid mantra of the 'willing buyer, willing seller' principle. In Zimbabwe, the government and the organised farming lobby (represented by the CFU) failed between 1980 and 1999 to work out an internal deal over the scope and pace of land reform. This is one lesson that white commercial farmers in Namibia and South Africa could reflect upon. However, white commercial farmers in Namibia and South Africa do not appear to be taking a sustained proactive position, as opposed to a reactive one, on land reform. A positive factor in Namibia and South Africa is the continued commitment of the governments to stick to

the constitutional provisions on land and to the rule of law.

The Zimbabwe model of fast track reform resulted in the eviction of nearly 4,000 farmers out of a then total of 4,500. Most were forced off their farms in 2001 and 2002 under draconian legislation introduced by the Mugabe government. Some had their property and equipment looted during the land invasions and most have not yet been paid compensation for the farms and their property by the government. While between 2-3,000 of the farmers have stayed on in the country's towns, several hundred have left to commence farming in Mozambique, Zambia and Angola, with some reported to have been invited to farm as far afield as Nigeria. The eviction and migration of Zimbabwe's white farmers represents a tremendous loss of important assets of farming skills, experience and investment which will take a long time to replace.

Black commercial farmers

A new dimension and dynamic in land reform in the region in the past decade relates to the emergence of a new social force, a black agrarian bourgeoisie, as a key player in the process. This represents a shift from the previous and exclusive focus on the land needs of small farmers and the landless. This shift underlay the introduction in Namibia of an Affirmative Action Loan Scheme specifically for emergent black commercial farmers, and government facilitation in Zimbabwe of access by potential black farmers to leases for state land. In South Africa, there has been a conscious attempt to extend black economic empowerment to the land sector by supporting the formation of a black commercial farming class. This takes the form of state grants, provided prospective farmers also make their own financial contribution.

However, it is unclear whether the formation of a black land-owning bourgeoisie resolves or complicates the land question through the replacement of one racial elite by another. The encouragement by governments of the formation of a black agrarian bourgeoisie has been termed a 'de-racialising' of the commercial sector in the region. It is revealing, however, that this emergent class is drawn from the business and political elite, and from the senior ranks of the bureaucracy and uniformed services (army, police, etc). The class is clearly aware that land ownership is potentially a source of economic and political power.

Although aspirant black commercial farmers in Namibia and South Africa have to raise loans for farm purchase and operations, the situation has been different in Zimbabwe and Angola. In Zimbabwe about 7,200 black commercial farmers were allocated land amounting to more than two million hectares in 2002-03. Indeed, the process has been described as 'land grabbing' of prime commercial farmland by the elite, and it raises questions about transparency of the process itself, and about the capacity of this elite to turn the land to productive use. There is also reportedly a great deal of land grabbing by the elite in Angola in the post-civil war period (Informal Think Tank Group, 2003a).

In general, there is a strong element of speculation in land grabbing without compensation to former owners, and this undermines broader efforts at land reform. The potential for conflicts between the land grabbers and small farmers, not to mention the landless, is high. Indeed, the future of land reform and agriculture in the former white-settler states will depend partly on the performance of emergent farmers. Although it has become an explicit policy to encourage the formation of this elite, it remains to be seen how many of them are full-time rather than 'telephone farmers'. It would take many years to adopt and refine farming skills, and it is significant that most black commercial farmers are starting from scratch. The attrition rate amongst this class of farmers is likely to be high, as it was among the early white commercial farmers at the turn of the 20th century. Historically, not every aspirant commercial farmer succeeds in this tough vocation.

Women

Most land reform programmes throughout the world have failed to mainstream the interests of women, and land reform processes in southern Africa have been no exception. In Zimbabwe, the women's land lobby pressed for access by women to at least 20 per cent of the land under the fast track programme. About 18 per cent of the recipients of land were women. The proportion of women among the 7,200 emergent commercial farmers that were allocated land was even smaller. In Namibia and South Africa, there has been very little attention paid to women's needs for land, while in Malawi, there are concerns that under the new land policy, women's land rights will be undermined.

Conditions are not much more favourable for women with respect to customary land rights. Disparities persist in land rights of women and men under customary law in most countries in the region. Although women in rural communities reportedly prefer the easier accessibility and lower cost of customary systems, and often have defined rights over specific fields used for food crops and other activities, women still suffer from strong male bias in relation to land rights (Informal Think Tank Group, 2003a). The bias is mirrored and exacerbated by male-dominated land administration systems. A recent study observed that in the region there continued to be discrimination against women owning land under customary law due to patriarchal attitudes (UNECA, 2003).

In Malawi, for example, women's rights are tenuous because patrilineal marriage customs do not give women entitlement to land. Under the custom, women can only access land through their husbands and sons. Matrilineal marriage customs do not assign custodial ownership rights to women. The country's new land policy recognises customary land tenure, but does not address the built-in disparities.

In Lesotho, statutory laws discriminating against women owning land are still in place. In Zambia, where statutory laws are not discriminatory, the level of awareness of such laws among women is low, and socio-economic constraints such as illiteracy and lack of capital hamper the exercise of their land rights. In Botswana, there is no harmonisation of non-discriminatory land laws with marriage and inheritance laws.

Land reform programmes must give adequate attention to mainstreaming of gender concerns into land policy and implementation – whether in a customary or more formal context. This means ensuring that land reform programmes specifically address the interests and meet the needs of women. Consideration must also be given to how land reform policies will be affected by other laws and practices. In particular, divorce and inheritance practices relating to land rights require urgent review to protect women against the loss of access to and ownership of land – particularly, in the context of the AIDS epidemic in the region, access and rights to land for widows.

HIV and AIDS

The potentially devastating impact of the HIV and AIDS epidemic should be factored into land reform processes. The southern Africa region is an epicentre of the epidemic in the world. The prevalence rates among the population in the age 20 to 49 group in the region are between 20 and 25 per cent.

In Zimbabwe's land reform programme, the epidemic was not factored into the redistribution process. If about 25 per cent of the estimated households are likely to be affected by HIV and AIDS, then their land will be underutilised, if not lie fallow (UNDP, 2002). With land at a premium, countries cannot afford to underutilise their land resources.

Furthermore, the implementation of land reform in Zimbabwe has accelerated the breakdown of community-based structures that provided safety nets of some sort, such as home-based care for the ill. The closure of farm health facilities compounds the precarious situation of surviving farm worker communities. Thus, the more vulnerable groups in society include farm workers and orphaned children. Among the former, the prevalence rates of HIV and AIDS are above average, while orphans face problems of access to food, education and safety nets in a context in which the traditional extended family network is now under tremendous stress.

The impact of the epidemic on agrarian livelihoods has been relatively well documented. Labour and skills shortages and disruption of work periods to attend funerals all have effects on the activities that create and maintain the rural environment, and on the capacity of rural households to grow enough food or generate enough income to feed themselves. However, little work has been done on tenure systems and the possible cumulative consequences of the epidemic on land systems in the future (Informal Think Tank Group, 2003a).

The future of land reform

The underlying argument of this paper has been that land reform should be designed and implemented in an equitable and transparent manner within a broad national development strategy that strives for poverty reduction and social justice.

Tenure reform

Most countries in southern Africa continue with dual land tenure regimes, based on statutory and customary land ownership. The former is associated with large-scale commercial farmers and the latter with small farmers.

Small farmers should not be disadvantaged by lack of individual title deeds when they seek credit and loans. Tenure reform should provide for basic rights of ownership. Such arrangements as the entitlement to Land Use Rights can go a long way to endowing local communities with rights and control over land and its resources (such as water). Land laws should make these rights secure. There is a link between secure land rights, investment and growth, and tenure reform can strengthen this linkage. Where land reform has occurred without requisite planning, as in Zimbabwe, resettled small farmers must have security of tenure rather than open-ended government permits that can be revoked at its will.

Countries implementing land reform should strengthen the legal basis for secure tenure by updating and harmonising laws governing the land; addressing negative tenure provisions in both customary and statutory tenure systems; and democratising land administration systems (UNECA, 2003). They should develop transparent and accountable rural land institutions, design laws that protect the land rights of minority groups (such as the San in Botswana and Namibia), and disseminate information about new land policies and laws that improve tenure security.

Tenure reform measures must define and protect the rights of women. A starting point would be to incorporate into law a statutory provision on rights of access to land. This might include provision for joint registration of customary and statutory land rights for spouses. Land laws would need to be harmonised with marriage and inheritance laws so that women do not become more vulnerable

when marriages break up or husbands die. Tenure reform should also ensure that there is an enabling environment that improves women's access to capital (especially credit), agricultural inputs (seeds and fertilisers), training and extension services so that they are able to turn land into a productive asset.

'Willing buyer, willing seller' principle

In those countries where large land transfers are a necessary part of reform, a major constraint has been the financial resources to purchase land for the land-hungry. The 'willing buyer, willing seller' principle mainly applies in countries – Namibia, South Africa and Zimbabwe – where land inequalities have been sharpest. It assumes that land will be 'willingly' offered for sale by landowners, and that governments can find the necessary funds to purchase it at market price. In practice, the budgetary outlays required for such purposes are beyond the reach of governments, even relatively richer ones such as that in South Africa. The principle also limits a government's flexibility in choosing the locations of contiguous settlement schemes. So far, it has not worked in Zimbabwe, and it is uncertain whether it will work in Namibia and South Africa.

However, there is increasing acknowledgement, even among white commercial farmers, that there might be cases where state expropriation of land is appropriate or necessary, though they believe that this should be a last resort (Informal Think Tank Group, 2003b). Even an institution as dedicated to the 'market' as the World Bank now concedes that the operation of the market alone would not provide the poor with access to land at the level and speed required to deal with 'deep-rooted problems of structural backwardness and deprivation' (World Bank, 2003).

Both governments and landowners should explore an alternative approach that takes into account the government's public responsibility for land resettlement in overcrowded regions, and the farmers' right to fair compensation. An independent National Land Board or Commission could be set up to advise on valuation and pricing of land for sale, and on compensation for improvements on land released for sale. Laws on maximum farm holding size for particular agro-ecological regions could be developed. A tax on underutilised land would be another mechanism to persuade farmers to release land onto the market and to government.

Women's rights to land

Although under customary law women possess and exercise certain rights, men still dominate in terms of control of customary land. The strong bias towards patriarchal domination of customary landownership should be addressed. Land inheritance practices ought to be reviewed to ensure that widows have rights to land after the death of their spouses, and daughters after that of their parents.

The low level of knowledge about their rights and their lack of resources tend to prevent women from accessing those rights they do have. Training on gender issues and human rights for those working in justice systems would create awareness and change perceptions, and so help to improve flaws in the delivery of justice (FAO-Oxfam, 2003). Such a rights-based approach might have as much impact as a narrowly legalistic one that emphasises individual title to land. Some studies of resettlement schemes have observed that while a minority of women are interested in the idea of independent rights in land de-linked from their husbands or families, few saw this as a solution to their problems (Walker, 2001). They were more interested in ways of securing, even extending, their rights within their households, through such mechanisms as joint title or individual copies of title deeds. The effectiveness of such measures should be monitored by governments, for example through gender-disaggregated indicators at national and local level, to ensure that the measures do not just pay lip service to the aim of equal rights for women (UNECA, 2003).

Farm workers' interests and rights

Although farm workers are one of the most disadvantaged social groups in terms of low income, insecure employment, low literacy, and limited access to education and health services, governments have shown no interest in ensuring that they are beneficiaries of land reform. This is despite the fact that when land ownership changes hands farm workers tend to suffer from loss of employment and livelihood. In Zimbabwe, most of the farm workers who lost their jobs due to the eviction of white farmers have become destitute and dependent on humanitarian relief. Fewer than five per cent of them were provided with access to land. The interests of farm workers have similarly been largely ignored in Namibia and South Africa, and indeed in other countries in the region.

Instead of making farm workers more vulnerable, land reform

programmes should ensure that they secure land rights of their own, and that there are opportunities for employment for those who wish to continue doing farm work. If no alternative livelihood opportunities are created, farm workers will simply swell the ranks of the landless and the destitute, exacerbating the problems that land reform sets out to address.

Many farm workers have amassed considerable skills and experience in crop production techniques, including in labour-intensive commercial farming areas such as tobacco and horticulture, and technical skills like maintenance of farm and irrigation equipment, machinery operating and driving of tractors and combine harvesters. When farm workers lose their jobs due to land reform, these skills may go to waste unless governments take proactive steps to utilise them in the wider economy, for example by setting up employment exchanges. Farm workers might also be supported in setting up cooperative farming schemes or small industrial enterprises in which their skills could be usefully deployed.

Land reform and HIV and AIDS

It is inexplicable that the land reform programmes being implemented in the region do not have a component that addresses the HIV and AIDS epidemic. Its impact on agriculture and rural economies is far-reaching. There is already a worrying trend towards labour shortages in smallholder agriculture as the epidemic stalks people in the productive age groups of between 20 and 50 years. Research in such countries as Lesotho, Malawi, South Africa and Zimbabwe further indicates that one of the effects of the epidemic on women, children and poor households has been land dispossession by patriarchal kin members on the death of male household heads, and increased risk of losing unutilised or under-utilised land (UNECA, 2003).

Land reform programmes must consider the possible consequences of present trends in illness and deaths. Attention may be directed to labour-saving devices and technologies. Community-based schemes to care for the sick and to nurture orphans should be planned. Legislation to protect the land rights of women, orphans and people living with HIV and AIDS should be considered.

Finally, to the extent that HIV and AIDS morbidity and mortality impoverish households, the epidemic threatens food security. The

components of food security are that food should be available, that people have access to sufficient amounts of it, that supplies should be stable and that food should be of good and dependable quality (Barnett and Whiteside, 2001). When these components are not present, the situation of those living with HIV and AIDS is exacerbated. It is therefore vital that land reform should incorporate a strong food security element to ensure that food shortages do not worsen the impact of the HIV and AIDS epidemic.

Land reform programmes should also ensure that national HIV and AIDS awareness campaigns and resources are not confined to urban areas but also spread to rural areas.

Multiple livelihoods

In countries such as Swaziland, Lesotho, Malawi, Zimbabwe and South Africa rural congestion increases every year. Resources such as soils and pasture are under tremendous pressure. While land reform will go some way towards providing opportunities and resources for poverty alleviation, it will not address all problems relating to slow growth and poverty in the region. Job opportunities are viewed by many in rural areas (especially the youth and young adults) as a greater priority.

As we have already observed, small farmers do not depend entirely on agriculture for their livelihoods, nor do workers subsist solely on wage incomes. Land reform should take into account the blurring of the distinctions between 'small farmers', 'workers' and the 'middle class'. This implies a re-think of the criteria for selection of land beneficiaries, and the forms and scale of support services that they will require to make their activities and livelihoods sustainable. Land reform should be part of a wider national development strategy, and be linked to the development and modernisation of the industrial and manufacturing sectors.

Managing and resolving land-related conflicts

It is scarcely surprising that land-related conflicts erupt during and after land reform, especially where the process is not transparent enough. There can be disputes over farm boundaries, and over resources such as water and infrastructure. Greed and opportunism fuel the grabbing of resources. There is sometimes conflict between small and large farmers, between farm workers and the newly settled

farmers, between the newly settled farmers and the landless, and between the settler beneficiaries themselves (for example, between small settler farmers and members of elites such as the emergent large-scale black farmers).

A mechanism should be set up to resolve land disputes. Such a mechanism should provide for participation of local community stakeholders in the resolution of the disputes. At the national level, a body such as an independent National Land Commission with representation from the key stakeholders could be set up to deal with land-related issues including conflicts.

An interesting model is the Land Board institution in Botswana. Land boards are non-political institutions composed of members elected and nominated from the community to take over the customary land administration functions, such as land allocation, that used to be carried out by chiefs and other tribal authorities (UNECA, 2003). Boards are empowered to award not only customary land rights but also common law leases to applicants or to the state if the land is required for public purposes. Such boards could serve a useful function not only in the allocation of land under land reform but in conflict resolution where disputes arise.

Breaking the political cycle

Governments should steer away from manipulating land issues for political purposes. This is cynical. Land reform is too important a tool for addressing poverty and promoting growth to be manipulated at election times.

Civil society and political parties have a role to play in ensuring that governments remain committed to steadfast implementation of land reform. Political parties ought to maintain pressure on the government to deliver on promises and programmes of land reform. Meanwhile civil society organisations that work on land issues need to connect more closely with grassroots communities in rural areas. Some positive examples are the Zambia Land Alliance, the National Land Committee in South Africa, and the Women's Land Lobby group in Zimbabwe. There is scope for others to learn from these experiences. Academics, policy analysts and consultants working on land issues also have an important role in undertaking applied research on land issues with a view to influencing the content and direction of policy.

In the past, land has been a crucible for the social, economic and political pressures besetting the region. The future of the region may well depend on how effectively the ongoing process of land reform can relieve these pressures. Regrettably, as long as land reform is addressed in a piecemeal, haphazard and partisan fashion, the capacity of the land to give life to the people of the region will continue to be critically undermined.

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Inheriting the earth

Land reform in southern Africa has so far failed to address the deeply rooted social, economic and political inequalities that persist over the ownership of and access to the land. As demands for land continue to grow, the need to resolve the 'land question' is becoming ever more urgent.

In this Comment, Lloyd Sachikonye, a specialist in agrarian and labour studies from Zimbabwe, examines post-independence approaches to land reform and their impact on the people of southern Africa. He argues that the capacity of the land to give life to the people of the region can best be harnessed by incorporating land reform within national development strategies that strive for poverty reduction and social justice.



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