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## Elite capture and state neglect: new evidence on South Africa's land reform

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### Summary

The most recent incarnation of South Africa's land reform is a model of state purchase of farms to be provided on leasehold, rather than transferring title. This briefing presents headline findings from our field research in one district.

### Introduction

South Africa's land reform is in flux – and, arguably, in crisis. We argue here that the widespread criticism of its slow pace fails to capture the extent of this crisis. Our argument follows from that of Lionel Cliffe (2000), who pointed out that land redistribution was constrained not merely by the constitutional settlement and protection of private property, nor by the World Bank's market-based land reform formula of the 1990s. More profoundly, he argued, the manner in which redistribution was practised was 'constricted by old-fashioned "modernist" (and often implicitly colonial) orthodoxies still current in South Africa' (Cliffe 2000, 273). This briefing shows how, years later and after several policy shifts, these orthodoxies have shaped a contorted reform, centred on criteria of commercial 'viability' and governed by state officials, consultants and agribusiness 'strategic partners' concerned with surveillance and control of 'beneficiaries' in 'projects' with precarious tenure on un-subdivided commercial farms now owned by the state. This is a far cry from the vision of land reform restructuring the countryside and establishing a major smallholder class with independent and secure land rights.

Since the National Land Summit of 2005 where, at least discursively, the government abandoned the 'willing buyer, willing seller' approach (Hall 2005), a raft of new policies and laws has been developed. Proposed new laws and policies that, as of mid 2016, are under preparation or under consideration, in public consultations and in parliament, include measures to introduce land ceilings, to prohibit new purchases by foreigners, and to introduce race and gender information in the national deeds registry (Regulation of Land Holdings Bill); to limit the subdivision of high-potential agricultural land (Preservation and Development of Agricultural Land Framework Bill); to transfer ownership of customary land in the former 'reserves' or Bantustans to 'traditional communities' and entrench the powers of traditional leaders in its governance

(Communal Land Tenure Bill); to introduce equity ownership schemes for long-term farm workers (Strengthening the Relative Rights of People Working the Land Policy); to promote allocation of small plots to the landless (One Household, One Hectare Policy).

Across all of these, the precise class agenda and vision for agrarian reform has become obscured. Who is the target for land reform: an emerging commercial class of black capitalist farmers or the rural poor, farm workers and small-scale farmers? Is the aim to promote and defend large land holdings or to promote their subdivision to make available smallholdings? Should rights be vested in rural households or in traditional councils? And what is the role of state ownership and state land administration, as an alternative to private ownership? As contradictions emerge in these new policy directions, the foundational logic of land reform is being inverted.

This briefing addresses the changes in processes of land redistribution specifically, presenting headline findings from field research in one district, to raise questions about the political and economic implications of the latest incarnation of land reform policy in South Africa. Our aim is to investigate and analyse how land redistribution is progressing, specifically the state's purchase-and-lease approach. We provide a brief review of how land redistribution has evolved, and the various policy shifts and adjustments since the 1990s as background. Next we discuss our rationale, objectives and research questions; research design, sample selection and methods; and highlight five key findings from the research. While we will report more fully on our research in due course, the disturbing patterns of state control, state neglect and elite capture that we discovered merit urgent attention.

### **The shift to state purchase and leasing**

Land redistribution policy and practice have undergone profound changes over the past 20 years. Among these is the shift away from state-assisted land purchase and transfer of title to beneficiaries – the model advanced by the World Bank in the early 1990s (Binswanger and Deininger 1996) and adopted by the ruling African National Congress as policy in 1997 (DLA 1997). In the early years this took the form of small grants to poor households to buy modest areas of land for settlement and small-scale farming. From 2000 onwards, under President Thabo Mbeki, a new policy promoted black capitalist farmers, providing larger land purchase subsidies to those with their own means to engage in commercial production. This, it was argued, would prevent patterns of overcrowding and under-utilisation of land evident in the first phase, but produced high levels of indebtedness among the new capitalist farmers. From 2011, under President Jacob Zuma, the state has adapted the willing buyer, willing seller approach; now the state has itself become the purchaser of land, acquiring land for redistribution to beneficiaries without transfer of title. State leasehold has replaced the original private ownership model. But with what consequences? And to what degree has this significant change helped to remedy the many problems of the initial programme or produced new problems?

The state leasehold model has been implemented in a variety of ways in different parts of the country, guided by a Proactive Land Acquisition Strategy (PLAS), which empowers state officials to buy farms on the open market and allocate them to selected beneficiaries (DLA 2006). This was initially for a three-year test period after which title would be transferred to ‘emergent farmers’ who had proven themselves to be successful. However, after widespread non-payment of rent, the promise of eventual title has been abandoned. From 2011, state land purchase and leasing has come to constitute the entirety of land redistribution, as grant-based purchase was discontinued. The state leasehold model has since been amended through the State Land Lease and Disposal Policy (SLLDP) of 2013 that established a principle that black farming households and communities may obtain 30-year leases, renewable for a further 20 years, before the state will consider transferring ownership to them (DRDLR 2013a). To qualify for on-farm infrastructure and production support, under a Recapitalisation and Development Programme, ‘beneficiaries’ are required to enter into a partnership with a ‘strategic partner’ – i.e., a farming or agribusiness company – in a mentorship or joint venture arrangement (DRDLR 2013b).

Government appears to have no clear system to ration public resources, since it abolished the land reform grants that enabled people to buy land for themselves. While funds allocated to land reform have been in decline, most of the budget – in the region of R2 billion<sup>1</sup> each year – is spent on the state’s Agricultural Landholding Account to fund land acquisition for redistribution under this leasehold model. Who will get how much of the shrinking land-reform pie? In the absence of land reform grants, there is huge disparity in who gets what. In some cases, a sizeable community may get a small farm, while in other cases government buys a large farm with substantial infrastructure and even livestock, and gives it to a single family. The result is that some beneficiaries receive nothing other than occupation of farms, some of which are dilapidated, while others receive valuable farms as going concerns with infrastructure, equipment and livestock. This practice is seen as arbitrary and unfair, and generates mistrust and suspicion among beneficiaries regarding government decision-making and the basis on which officials allocate resources.

### **Rationale, objectives and research questions**

The rationale for our study was to find out if the current policy approach is achieving the aims of land reform and addressing the problems that were identified with previous programmes. Our purpose was to contribute evidence and analysis to the lively public debate on land issues. National government, parliament and the South African public at large know very little about what is happening on the ground. The voices of those who *do* know – including state officials responsible for implementation and beneficiaries themselves – are generally absent from the political debates under way, and research can help to foreground their experiences and understandings. There are detailed sets of studies in the literature about other aspects of land reform, including restitution (Walker et al. 2010), earlier phases of redistribution (Aliber et al. 2013), farm workers and evictions (Wegerif, Russell, and Grundling 2005) and communal tenure (Claassens and Cousins

2009), and land reform and land use in general (McCusker, Moseley, and Ramutsindela 2016). However, with one known exception (Ranwedzi 2012<sup>2</sup>), there is a complete dearth of academic research on this latest wave of redistribution. We aim through this ongoing research to start to address this gap and to encourage more critical scholarly engagement on the topic. Our research objectives were threefold. First, we aimed to investigate the state's practices and approaches with regards to land acquisition, the selection of beneficiaries and support for farmers. We asked what factors shape decisions regarding land acquisition and how the needs of beneficiaries are matched with land available. We also ask what land tenure rights beneficiaries have acquired, what land uses are being promoted, what support is provided to the beneficiaries and by whom. Second, we aimed to explore and derive lessons regarding the impact of PLAS on the farmers who are beneficiaries of the scheme. This involved assessing the extent to which they perceive their land tenure as being secure, given that the state does not transfer the land title to them. We also asked how their perception of tenure security affects their farming practices and land use, investment decisions, and therefore the benefits they can derive from the land they acquired. Third, we aimed to understand how government actors and beneficiaries see PLAS in terms of the overall goal of land reform that includes redressing historical land injustice and social and economic inequality. In answering this question, we explored how the purposes of land redistribution are understood both by state actors and by beneficiaries.

### **Research design, sample selection and methods**

The study was conducted in response to a request from the Portfolio Committee on Agriculture in the Eastern Cape Provincial Legislature. We focused on one district, Sarah Baartman District, and conducted in-depth investigations of 11 projects during a series of fieldwork visits over a period of three years. We adopted a qualitative, field-based research design, selecting cases from the database of the Department of Rural Development and Land Reform (DRDLR). Our sampling frame aimed to achieve as diverse a sample as possible. For our purposive sample, we used selection criteria that included projects that involve larger and smaller land sizes, higher and lower purchase prices, larger and smaller beneficiary numbers, diverse land uses, and to cover sites in several local municipalities within the district. We have no reason to believe that our sample misrepresents the wider reality within the district, although this cannot be definitively concluded in the absence of wider post-acquisition monitoring. We make no claim as to whether the findings reflect patterns in other districts and provinces, but contribute our findings in order to raise questions about wider patterns at the national level.

We aimed not merely to derive field-based research findings but to engage on this basis with beneficiaries and officials. We therefore adopted an iterative process of 'action research', which involved interviewing beneficiaries, and then providing feedback to implementers in government, and specifically the DRDLR officials in the province. From there, we provided further feedback to beneficiaries regarding the views of the

DRDLR, and also provided updates to them regarding changes in policy and discussed how these would affect them, and how they planned to interact with the Department in view of its new policies: the State Land Lease and Disposal Policy and the Recapitalisation and Development Programme.

### **Summary findings**

Our findings show the stark contrast between proclaimed policy aims and realities on the ground. Across all our thematic areas of enquiry, the policy principles of tenure security, poverty reduction, gender equity, sustainable land use, and resilient rural livelihoods appear to have foundered in practice. Here we present in summary some key findings.

#### ***No beneficiaries had current documented land rights***

Although government policy emphasises the need for tenure security, and aims to achieve this through the provision of long-term leases, we found that beneficiaries did not have leases in any of our case study projects. The only two valid leases among the sample were concluded between government and strategic partners (i.e., agribusiness companies), not the ostensible ‘beneficiaries’. The inability of beneficiaries to pay rent to the state has led officials to institute a practice of issuing ‘caretakership’ agreements (mostly lapsed) in order to absolve beneficiaries of a need to pay for their land. Under such agreements, rather than being rights-holders, they are given a duty to look after state property for a limited period, normally three months, with the state being able to give them 30 days’ notice to vacate the property. In one case, a family was granted permission to occupy a state farm (without a lease), and asked by the DRDLR to deliver an informal eviction notice to those already occupying it. This is possibly the opposite of the vision of secure long-term rights for black South Africans which was at the core of land reform as envisaged in the 1990s; it was to end the situation of precarious tenure that colonial and apartheid governments entrenched. Situations in which people either have no documented rights, or have caretakerships or expired leases produce high degrees of uncertainty, leading people to avoid investment in land use, production or maintenance of infrastructure. This means that ‘beneficiaries’ have little or no tenure security. In a twist of Orwellian irony, the ‘beneficiaries’ may not benefit at all, but are allowed to be temporary squatters on land over which they have no rights.

Our sample is summarised in Table 1, indicating the tenure status prevailing at each project (i.e., farm).

In addition to the situation of chronic tenure insecurity, there are widespread and inaccurate expectations among beneficiaries that they will become owners of the land they occupy and use. The adoption of the SLLDP in July 2013 – which extends the period of leasehold prior to ownership to 50 years – was not communicated to any of the projects in our sample until we distributed copies of the policy and explained it. This unpublicised about-turn in policy suggests political risk in the future as large numbers of people around the country discover that their expectations of gaining ownership of the land they now

occupy will not be met. Our findings suggest a need either to revisit the state's policy of retaining ownership and managing state land leases, or to implement profound changes in the system of state land administration to ensure that people occupying state land acquire secure rights and are able to build their livelihoods on this land.

**Table 1.** List of case studies indicating land uses and tenure status.

Farm	Municipality	Land uses	Strategic partner	Tenure status
TM	Amathole	Beef cattle, sheep, chickens	No	No lease (expired caretakership)
MF	Ndlambe	Dairy cattle	No	No lease (expired caretakership)
WZ	Sunday's River	None	No	No lease (expired lease)
SF	Sunday's River	Beef cattle	No	No lease (no documented rights)
GK	Ndlambe	None	Yes	No lease (expired lease)
GM	Ndlambe	Chicory, cattle, rye grass	Yes	No lease (expired lease and expired caretakership)
SL	Sunday's River	Citrus	Yes	Lease (but lease is with the agribusiness strategic partner; beneficiaries are not the lessees)
NG	Sunday's River	Citrus	Yes	Lease (but lease is with the agribusiness strategic partner; beneficiaries are not the lessees)
NK	Ndlambe	Cattle, vegetables	No	No lease (no documented rights)
YS	Makana	Vegetables, chickens	No	No lease (no documented rights)
RG	Makana	None	No	No lease (expired caretakership)

### ***The absence of secure land rights impedes production support***

The lack of clarity about the status of beneficiaries' tenure has practical implications. Other state institutions such as the provincial Department of Agriculture and Rural Development refuse to deliver services or invest in their land uses. People are not able to access credit as financial institutions require some proof of their right to occupy. As a result, emerging commercial farmers, including those who have capital from other sources, are being stymied in their farming operations. This is due to an inability to secure loans and other sources of support, and to make on-farm improvements, because they do not have valid leases. Further, we discovered cases where beneficiaries who *were* making improvements to their infrastructure – fixing a shed roof, renovating farm worker housing, or putting up fences – were told by DRDLR officials to cease such fixed improvements on government property. Without rights, access to land does not translate into opportunities for development.

### ***State institutions are working at cross purposes***

Our findings point to a stand-off between key state ministries, notably those responsible for land reform and for agriculture. Provincial agricultural officials we interviewed indicated that they will not provide support to these projects, because of a lack of long-term leases but also because of a perception that since DRDLR has funds under its Recapitalisation and Development Programme, agricultural authorities have no responsibilities to deliver on their mandate of agricultural support. These two departments have no shared policy framework or coordinated input at project level, with the result that some people get land without any support to use it, are sent back and forth between departments, and may wait many years after occupation for any infrastructure or production support. The current policy model requires renegotiation of state institutions' roles.

### ***Farm workers face increased tenure insecurity and livelihood uncertainty***

The proactive purchase model means that, from the moment of transfer, when farms become state property, all commercial operations cease, with profound impacts on farm workers – who are usually also resident on farm. When government buys farms, farm workers lose their jobs and often their only sources of cash income. In contrast, the (usually white) farm owners who sell to the state are paid out in full and can create alternative livelihoods elsewhere. Farm workers – without their own capital to invest, and without leases or any recognised rights to the land – are therefore isolated from development opportunities. Some former farm workers who continue to live on the farms expressed feelings of deep insecurity, now that they are not employees of private farmers, but undocumented occupiers of state-owned land. Special consideration may be needed to treat farm dwellers differently from other beneficiaries, especially to avoid the pattern of farm workers losing their jobs as a result of state acquisition.

### ***There is evidence of elite capture – and state collusion with agribusiness***

We found in two cases that government has concluded leases with the strategic partners (i.e., agribusiness companies), rather than with 'beneficiaries' themselves, who therefore neither own the land nor lease it, but remain workers on state farms, working for strategic partners. In both cases the people involved as strategic partners are established farmers or representatives of large agribusinesses and all those we came across were white men. A key condition for financial support from the DRDLR is that beneficiaries must have either a strategic partner (to operate the farm on their behalf) or a mentor (to advise them how to do so). This is why beneficiaries often enter into such partnerships; yet in the two cases we came across, the agribusiness company itself started the project and, having acquired farms from the state, signed up the farm workers as 'beneficiaries' to be registered in the official database. Beneficiaries in these strategic partnership projects lack control over land, capital and production. There is no clarity on whether strategic partners are vetted, by whom and how. Strategic partners and mentors garner tangible benefits: mentors receive monthly cash payments from the state for playing this role, while strategic partners hold shares in joint ventures while benefiting from state subsidies and access to state land. In three cases we found that the strategic partners owned downstream

processing and packing factories, to which they sold the farm produce, enabling transfer pricing. In one case, the 'strategic partner' was an agribusiness which ran the PLAS farm as its own operation, directly siphoning the produce to its processing facility, without payment to the 'beneficiaries', whom it treated as employees (and paid below minimum wage) on the farm the state claimed to have bought for them. Such cases comprehensively draw into question whether state funds for 'redistribution' are being used to provide (white) agribusinesses with cheap or free access to land in the name of redistributing land to (black) rural people. To the extent to which this is more widespread, it begs the question of *why* this is the case – and the degree to which the phenomenon can be attributed to corruption and collusion by the state officials who sanction such deals, or to attempts by officials to ensure commercial production even at the cost of redistributing land or wealth to the ostensible beneficiaries.

## **Conclusions**

South Africa's land reform seems to have succumbed to the ingrained scepticism held by officials in successive departments of 'native affairs' and 'bantú affairs' about secure and independent land rights for black people (Cousins and Walker 2015; Hall 2015; Hall and Williams 2003). Conditional tenure – under the authority of the state or traditional institutions – is a key way in which black rural populations can be controlled, and their failure to use land in compliance with official designs forms, once again, the basis for them to lose land. As Colin Murray and Gavin Williams (1994, 320), introducing the *Land and freedom* special issue of *ROAPE* aptly observed, when it comes to land, people 'do not generally like to be told what to use it for or how to use it'. Yet land reform in the past 20 years has gone from prioritising secure tenure as a basis for poor black South Africans to make their own land-use decisions to a highly prescriptive managerial approach which contributes to the privileging of sustaining commercial land use over providing secure tenure and preference for wealthy beneficiaries or agribusinesses. This we characterise as a form of 'productionism' that has altered the foundational logic of redistribution.

Long-standing debates about the market-based land reform approach centre on whether, if market price is to be paid, class relations are really being changed (Borras 2003). What we have witnessed in our research is that this latest phase of land redistribution is taking the 'market' to the next level. While the state is playing a more interventionist role by purchasing land itself, it is not challenging the supremacy of private property but rather becoming a significant player in the land market. And the capitalist logic of land reform has extended from market participation (to acquire the land) to expectations of commercial production (to use the land) in ways that militate against secured land access for the poor. When beneficiaries clearly cannot invest in and operate commercial farms, they are to be sidelined in favour of agribusinesses that can do so. The result, as we found in our field research, is a two-tiered land reform in which some (white-owned) agribusinesses garner handouts from the state, while poor families and communities who have accessed state land are left with insecure tenure and livelihoods. Our findings indicate a contorted reform governed by state officials,



consultants and agribusiness 'strategic partners' concerned with surveillance and control of 'beneficiaries' in 'projects' with precarious tenure on un-subdivided commercial farms now owned by the state.

Without redistribution of power and wealth to those who are the ostensible beneficiaries, is it even land reform? And what political function does land reform of this kind actually perform? These are questions our research will address further as it unfolds. For now, we offer this briefing to alert readers concerned with questions of rural political economy in South Africa to the dramatic and largely undocumented redefinition of land reform and the profound threat of state control and elite capture opened up by this latest policy change.

### **Notes**

1. Approximately 0.3% of the national budget.
2. Ranwedzi (2012) is a Masters degree mini-thesis by a state official and supervised by one of the authors.

### **Disclosure statement**

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