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Policy options for land reform in South Africa: New Institutional Mechanisms?

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Abstract

Since the 2005 Land Summit, new approaches to land reform have been on the agenda, yet there remains little clarity on the way forward. The main focus has been on means of accelerating the redistribution of land through new modes of **acquiring land**. Acquisition is an important matter but if treated in isolation risks mis-specifying the core problems evident in land reform in South Africa.

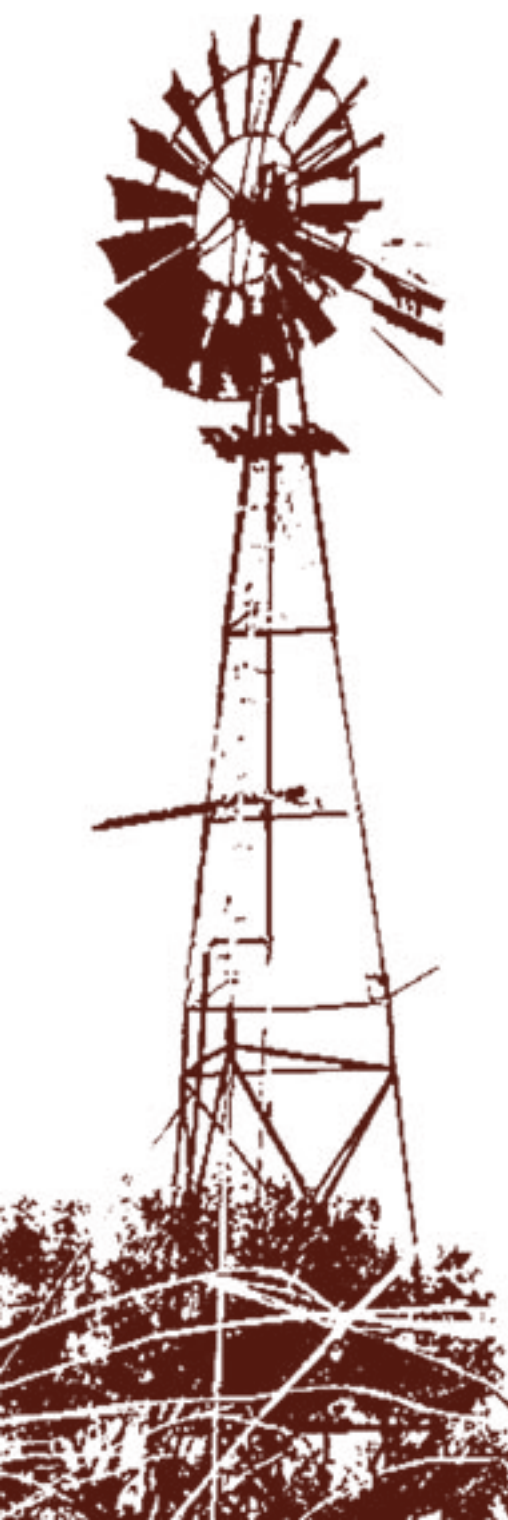
A new phase of land reform located within a wider agrarian reform is needed and will require new institutional arrangements. Any alternative strategy will have to revise the institutional mechanisms that have been handling land reform thus far: are the procedures and the institutions that are in place to design and implement land reform adequate and appropriate to the kind of new tasks envisaged? What new farming units and activities are intended, and what post-transfer support will be required to make this agricultural system productive? This paper explores mechanisms appropriate to one kind of agricultural alternative: a vision of a productive, small-scale essentially household farm sector.

What kind of land reform?

Most critical comment on South Africa's land reform has focused on the 'willing buyer, willing seller' (WBWS) mode of land acquisition. However, one other dimension of past programmes also needs critical re-examination: South

Africa has so far sought to conduct the transfer of land on a one-by-one basis, matching the seller of an individual property to a specific group of purchasers, and with a plan specific to that farm. In such practice, the government plays only a facilitating role. In some other experiences – Namibia since the 1990s and Zimbabwe in the 1980s – the WBWS formula simply meant no compulsory purchase and transfers through the market, at current prices, but the willing buyer was government.

One consequence of the South African practice of WBWS is that properties are acquired and transferred one-by-one, and a farm or business plan has to be drawn up for each land transfer. This has proved to be a major bottleneck and has also added greatly to the costs of the programme. This practice in effect militates against the possibilities of smallholder farming. The employment of a separate consultant and drawing up of detailed business plans would hardly be economically justifiable for one smallholding. An analogy with the housing programme would be to require a separate architect to draw up plans for each house, to be commissioned by and possibly paid for by the prospective occupant. If that had been the practice, the country would be even further short of meeting the needs of the homeless. Instead, the country's housing programme was made possible by whole estates being planned on the basis of one or a very few model structures; the only way such an ambitious building programme could have been achieved. In the housing context such a one-by-one approach can be



seen to be absurd, yet it has been the one followed in land reform and must be rethought if large numbers of 'disadvantaged' are to benefit.

This reliance on owners to determine which land will be sold, and the one-by-one process of land transfer, has the further consequence that it has precluded broader strategic planning of land reform. As a result there is no clear understanding of the ultimate intention of land reform. There could never be a one-formula-fits-all strategy in South Africa as the large commercial farm sector encompasses a range of different types of production units – but not an infinite variety, such as to defy the kind of categorisation that aids planning. The type of agriculture that has resulted from land reform since 1994 is in no sense clear-cut but is whatever the buyers and their business plan consultants – and subsequent trial and error – have made of it.

I illustrate (Cliffe, 2000) the enormous scale and diversity of actual projects – and thus the impossibility of using them to generate replicable models – by citing a mix of redistribution outcomes ranging from two brothers on a peri-urban smallholding running a garden and livestock fattening business, to an integrated and effective irrigation cooperative of 20 households working collectively, to the transfer of ownership of a former 'black spot', to a legal entity representing a community of almost 10,000 people trying to clear some small communal fields and otherwise allowing gardens and common grazing on the rest.

Policy, too, is vague about what kinds of farming are to be promoted. The small grants available under the initial Settlement / Land Acquisition Grant in practice required applicants to pool their resources and form some common property group, such as a communal property association (CPA) or a Trust, and government officials have tended

to assume that each existing holding would continue to be farmed as a unit.

The Land Redistribution for Agricultural Development (LRAD) programme from 2001 increased the size of grants, targeting would-be commercial farmers, but also required matching inputs – and retained the requirement of a business plan prior to grant approval, and thus the one-by-one transfer approach. The conception of the type of farming remained vague, beyond distinguishing 'food security' or 'production for markets', which may differ in their purpose and the scale of production – but with no conception of forms of production. Will either or both of these types be mechanised? Will they be based on individual family farms or some corporate or cooperative working pattern? The other type of project under LRAD is the buying into existing farm enterprises through equity schemes. Obviously, here the production unit would remain essentially unchanged.

Historically in South Africa and other 'settler' farming systems, the notion of a 'viable' size of operation has put legal blocks on sub-division but, on scrutiny, these are based on a 'minimum income target' that has nothing to do with calculations of efficiency or livelihood creation (Van den Brink et al., 2006). It is remarkable that this bias within the agricultural establishment has survived the transition to South Africa, and remains intact even within a programme of land reform. Attention must now be paid to the neglected question of what kind of farming systems should be the outcome of land reform. No district level planning, as is now being rolled out through area-based planning (ABP), is possible without including a clarification of this issue, or it will merely lead to the replication of a version of the existing agrarian structure. In particular, it is not possible to specify what kind of pre- and post-transfer support is required, and thus what agencies need to be in position with what resources, unless there is greater resolution of this issue.

The failure to clearly specify an alternative farming system is indicative of an enduring hostility to smallholder farming as at least one possible end-product of land reform – as several commentators have noted, including those as different in their outlook as Ben Cousins of PLAAS and Rogier van den Brink of the World Bank. This alternative perspective has pointed to the **advantages of smallholder production**:

- it can be commercial (not always synonymous with 'subsistence'); it can be a mix of production for own consumption and for markets;
- it can be more intensive and provide more livelihoods in a given area;
- it can lead to inverse returns to scale;
- it can be located on sub-divided holdings to make use of underutilised land;
- it is available to a wider range of beneficiaries, including the poor.

This paper strongly concurs that an alternative policy framework for land and agrarian reform in South Africa must include smallholder farming as a major element. But the kind of smallholder production, and the other options that should be promoted (e.g. workers' cooperatives on existing farm units) should be worked out in terms of what is appropriate to objectively defined social needs and agro-ecological parameters. Specific proposals then need to be worked out at the provincial and district levels. So much is acknowledged in some of the current discourse.

Alternative strategies should not necessarily seek the short-run optimisation of total production and yield per hectare, but rather aim to provide **increased numbers of livelihoods** from the land presently in the commercial farm sector (including that which is not fully utilised). The large farm sector has lost workers on a huge scale in the last

20 or so years. By 2002 total employment in agriculture had dropped about 30% from some 1,320,000 in 1985 to 940,000 in 2002. The loss of livelihoods is illustrated more dramatically by taking into account that the number of those in full-time employment has almost halved, as a result of labour being made more casual. There is an implicit assumption that such losses are a result of 'efficiency gains' but they may be a consequence of land being left idle or changes in types of production. No systematic research has been done to clarify the reasons for this trend, and thus no strategies are on offer to counter it. The large-farm commercial sector has been leaking a generation of people and livelihoods – the exact opposite of what economic development and anti-poverty programmes require. The challenge is to design a land reform strategy that can reverse that trend and aim to have not just more people dwelling on the land but more people gainfully occupied, getting part if not the whole of their livelihoods from the land.

New institutional requirements

Alternatives to the past programmes of land redistribution will require agencies to perform new or amended roles. The resolutions of the Land Summit mark a departure from earlier policies in two main directions: a more rapid and efficient transfer of land with priority to the needs of the poor, and the acquisition of at least some of the land through compulsory purchase. Future policies will have to be worked out about what kinds of land will be targeted for transfer – whether geographically defined, or by type or extent of current usage, or by some equity criteria like ceilings on holdings. And mechanisms to operationalise planning and targeting of such pro-active acquisition will have to be specified. A lesson from other countries' experiences

is that the planning and execution of land acquisition should be undertaken with the type of future production system and beneficiaries in mind. A recognised weak link in land reform so far has been the provision and coordination of all kinds of financial, extension and infrastructural support. If new strategies for targeting land for acquisition for specific production systems and beneficiaries are indeed to include a strong emphasis on intensive small-holder farming, specific new tasks of designing programmes and providing support for such small-scale production will be required. This has not been part of the one-by-one approach in South Africa, and it is questionable whether any existing institutions are presently equipped to perform such roles.

Land reform always involves a complex set of activities requiring a wide range of skills and expertise. This is more the case when it is planned as part of a broader process of agrarian reform wherein support is provided to those who receive land for the consolidation of their productive activities and livelihoods on a sustainable basis. Moreover, land reform is by definition an intensely **political** matter.

The policy guidelines coming out of the Summit imply either **new tasks**, which are beyond the core business or the capabilities of existing agencies, or involve some public bodies taking on **new responsibilities** that have so far been privately transacted. The institutional issues can be summarised in this list of questions:

- If the willing buyer/willing seller model is not to be the sole method of acquisition, what mechanisms, including the legal instruments, will plan and approve the designation of such land and expropriate such farms? Which land is to be acquired? Where? Who will decide this and on what basis?
- Presumably, some form of compulsory purchase will legally necessitate

acquisition by some public body, possibly for onward disposal. Should such an agency also, as in some Latin American countries, purchase such land as continues to be offered by willing sellers rather than all transfers being to some ultimate willing-buyer user?

- Which institution will plan new farming systems appropriate to new land users, and how will this be coordinated with the identification of people's needs and the targeting of land, so as to ensure that land acquired is appropriate for alternative land use after redistribution? Will this be achieved through a unifying agency or close collaboration between departments?
- How should infrastructure, service provision and credit be linked to beneficiaries at the appropriate stages? Existing provisions are currently inadequate and performed by different central and local government departments, the land bank and other agencies.
- How should the participation of communities and civil society be ensured in these functions?

The legacy of South Africa's institutional structures and actual experience with land reform has left a deficit of appropriate and effective mechanisms to perform these roles. Planning and coordination of the kind indicated has been weak and scarcely involved any unit beyond the project or individual farm. Moreover, some of the responsibilities are unclear or shared between national and provincial departments, local government, non-governmental organisations, the private sector and out-sourced bodies. Despite the debate on alternative policies, little attention has been given to which institutions will be needed.

However, the massive and glaring missing link in existing agencies is who is to perform this crucial role: the design of

regionally appropriate spatial plans for smallholder farming units. No existing agency currently sees this as its remit, and few of the existing bodies have the specialist technical expertise required.

One institutional option is a single, **dedicated land reform agency** that takes on the task of coordinating all these functions – either a government department or a parastatal. This is a model that has been pursued, in different forms, in a number of other countries that have undertaken substantial agrarian reforms. Some knowledge of these comparative experiences may provide a useful reference point. There are two key distinctions among these.

First is the **kind of transition**, whether from pre-capitalist mode of production (landed estates or landlordism) or from large-scale capitalist farming, and whether to smallholder, medium or large capitalist farming, cooperative or state farm. South Africa's planned transition is largely from existing large-scale capitalist farms, although it is not clear what production units are to be created. Sometimes the policy objective seems to be either to 'Africanise' them, with or without sub-division, as private or cooperative enterprises, or to sub-divide them into small farm properties. In the case of the latter, the experiences that correspond closest to it are Peru and, in Africa, Kenya and Zimbabwe.

Distinctions are also drawn between the **circumstances** in which land reform is launched: as part of a revolutionary or post-revolutionary surge (as in Mexico, Bolivia, Cuba, Chile and Nicaragua, and Algeria and Zimbabwe) as opposed to more of a reformist and negotiated process (as in Peru, Colombia, Namibia and Kenya).

Latin American experiences

Land reform measures can be traced back to the early part of the 20th century, after the revolution in Mexico in 1912, in Bolivia after the revolution of

1952, and of course in Cuba after 1959. But the high tide of land reform was in the 1960s when some 15 countries enacted land reform legislation – most of it 'from above', and with the intention of pre-empting social unrest, rather than as part of a social revolution.

The pattern in most countries was to set up a specialist, dedicated, multi-tasked and multi-disciplinary body. The spread of this formula was not accidental as there had been a continental Inter-American Committee for Agricultural Development (CIDA) which provided a network for exchange of thinking on land reform, among other agrarian challenges, and an accumulated pool of expertise and insights. Several countries also launched agrarian reform institutes, which became important repositories of research findings, knowledge and expertise that could fuel reforms and provide an unparalleled understanding of the dynamics of agrarian society. Often these institutes, with their committed personnel and knowledge, provided information and mobilisation to civil society bodies as well as providing expertise to government.

The Latin American experience still provides a useful checklist of what has to be addressed and coordinated to avoid failure, even if it is no longer fashionable that all these tasks and the coordination should be solely government functions.

The major share of responsibility of executing the agrarian reform will have to be borne by the government... But our governments in practice rarely act as if they were a unit, and indeed one of the more serious problems from this point of view of the organization and efficacy of action is the coordination of the activities of the various organs of government... For the success of an agrarian reform process it is necessary to act simultaneously and complementarily

in various fields: land has to be re-distributed among the peasant beneficiaries; they have to be organized and given credit in order to carry out various investments and to operate the new enterprises that are created; they have to receive the timely supply of various productive factors; they have to receive technical training and education; their crops have to be bought at prices that will compensate them for their efforts; markets and cooperatives have to be organized; the produce has to be bought and distributed to urban centres, etc. All these functions are complementary and if one of them does not work well or fails, a large part of what is being done in the other areas will be frustrated (Chonchol, 1964).

In **Columbia**, a new agency, INCORA (Instituto Colombiano de Reforma Agraria) was set up in 1961, with responsibilities for the acquisition of land through voluntary purchases from willing sellers and compulsory purchases of land that met the legislation's criteria for purchase (above ceiling size or under-utilisation), the distribution of such land and of state lands earmarked for redistribution, development of infrastructure in support, provision of agricultural credit to beneficiaries, and the direct running of irrigation and drainage projects. Under a more progressive government from 1966, INCORA greatly expanded its budget for acquisitions and other purposes. It also promoted peasant associations to mobilise for expanding land reform, which later led to some invasions, but also to a National Association of Peasant Beneficiaries that provided political support for land reform measures and also provided a part of the administrative structure through which the reforms were implemented. After 1971, under a conservative government, the pace of land reform and the extent of INCORA's role were slashed; a moratorium was declared on its further acquisition of land and it was criticised by the right

wing for its support of radical rural social movements.

In **Peru**, the 1964 reforms were aimed at bringing the landed estates in the mountains (the Sierra) into 'modern' farming, although, in fact, they had become partly commercialised. These reforms achieved little, except to spark land invasions by peasants. The radical military government enacted its own land reform in 1969, targeting instead the export-oriented commercial plantations in the coastal area (De Janvry, 1981). Commercial enterprises were expropriated and converted into cooperatives, mainly comprised of the previous workers on the plantations – one of the most extensive reforms in Latin America. One crucial task was the provision of state-appointed management advisers to liaise with the agricultural cooperatives (CAPs) and issue them with advice (often, in fact, directives). Later governments partially reversed this process and parcelled out the cooperatives' land, as part of structural adjustment. One institutional innovation in Peru was the setting up of independent land tribunals which had the final say in appeals about whether a landowner could, by virtue of size or under-utilisation of holdings, be subject to the rules for takeover. Thus one dimension of expropriation was not directly in the hands of a central agency. Financial institutions of government were also involved as the system of compensation was through deferred payments of bonds, which in turn were supposed to finance industrial growth.

In **Chile**, the first land reform under Christian Democratic governments in the 1960s was intended to pre-empt social unrest and to 'modernise' agriculture. The Agrarian Reform Corporation (CORA) was empowered to purchase land from willing sellers – though the law allowed deferred payments in the form of 25-year bonds – and to expropriate under-utilised land and land above certain ceilings (Bellisario, 2007).

An Agricultural Development Institute (INDAP) not only conducted research but promoted peasant and trade unions and cooperatives to give a popular push to the process, and it was estimated that half the *campesinos* were organised under such bodies. Under Allende's Popular Unity government, the head of INDAP, an agricultural engineer, became Minister of Agriculture and implementation was given a much greater thrust (six times more land was redistributed in the first year than in the previous six years). In addition, agricultural marketing, input supply and credit agencies were nationalised, though not placed under CORA, so there had to be mechanisms for coordination. In fact, there was close collaboration between CORA and the Ministry of Agriculture, both under dynamic, committed leadership. They, in turn, fed into Centres for Agrarian Reform that organised tenants, former workers and nearby peasants on the ground, so as to benefit from the reforms.

In **Venezuela** in the 1960s, a National Institute for Agriculture (IAN) was set up as an autonomous agency of the Ministry of Agriculture and Livestock as the 'responsible executing agency' for land reform. Its responsibilities covered land acquisition, assessment of compensation to be paid, determination of sizes and holdings to be allocated, actual distribution of land, construction of basic infrastructure, technical assistance and extension and administration of the Agriculture & Livestock Bank.

By the 1970s and 1980s, most Latin American countries had shifted to 'integrated rural development' without land redistribution. In the process, these institutions were dismantled and much of the accumulated knowledge and experience was lost. Venezuela, Bolivia and Chile are exceptions where some emphasis on land reform has re-emerged in the new millennium.

African experiences

Experiences comparable to South Africa are limited to the former 'settler

colonies' where there was extensive occupation of the land by white immigrants. This history also left a legacy (as in South Africa) of a distinctly **dualist** structure of agriculture, with large-scale commercial farms, ranches and plantations on the one hand, and on the other, 'reserves' of peasant family holdings variously constrained by limits on land, access to markets and support services, finance and legal prohibitions. This dualism was reflected in the bipolarisation of government structures. Departments of agriculture provided high levels of servicing, often including the design of farm plans, as well as credit and inputs and state marketing exclusively for the white-owned land; and 'native administrations', concerned with social control and land matters, with some added-on farming support services. Clearly, land reform designed to reverse the dualism also required some governmental restructuring of this inherited divide between service provision for large farms and mere administration of land and people in the 'reserves'. Those countries that have undertaken significant redistribution of that land include Algeria, Mozambique and Angola. But the cases in the anglophone ex-colonies of Kenya and Zimbabwe are most relevant.

Kenya was the first anglophone ex-settler colony to launch a programme of transferring land from white to African farmers. The Million-Acre Scheme launched in 1961, just before independence, targeted one type of farming enterprise in the former 'White Highlands': the owner-manager individual holdings under mixed farming (mainly maize, wheat and cattle), particularly those bordering the African 'reserves' – but left untouched the tea, coffee, sisal and sugar plantations. It was initially led by a Land Settlement and Development Board, heavily influenced by the interests of the white farming community in determining which land should be transferred, but this was replaced by a Central Land Board, which became the agency for purchasing the land.

The Ministry of Lands, later amalgamated with the Ministry of Agriculture, was also responsible for post-transfer support of the smallholdings.

In sum, there was a coordinated agency at the core of resettlement but the relations between this body and ministries and departments were characterised by political confrontation. And in wresting some control from the white settlers, some of the coordination over the acquisition and the settlement processes, and between administration of land transfer and support to post-transfer farming was lost. After the 10 years that the Million Acre Scheme lasted, the state withdrew from land redistribution; indeed, there was no longer any coordinating body such as the Central Land Board and thus no institutional memory lasted.

In **Zimbabwe**, after independence in 1980, the new government set itself the aim of resettling 165,000 peasant families on formerly white-owned farms. The land and agricultural departments that had dealt with white farming areas and communal areas were brought together under one Ministry; the two distinct extension and servicing departments were combined within the Ministry to form AgriTex, responsible for agricultural infrastructure, extension and production support, which was a considerable store of technical know-how.

However, the land acquisition unit in the separate Ministry of Lands operated autonomously from AgriTex and from the new coordinating agency for resettlement, DERUDE (see below). It bought up a stock of some 2.5 million hectares – about 30% of the white-owned farms – in the short period from 1980-82. Its decision of which farms on offer to purchase (many of which had been abandoned during the liberation war) was taken without any real consideration of suitability for resettlement, and this was the basis for criticism by

the planners who later had to put it to use. Many of the acquired farms bordered communal lands, often the site of fighting during the war, but by and large the less fertile areas. Out of this inherited structure, mechanisms had to be put together to design and implement a programme for resettlement, involving continuing acquisition of white-owned farms and the resettling of African farmers on the land.

The planning branch of AgriTex in the separate Ministry of Agriculture designed the land-use formulae and the physical layout to be used on the former commercial farms and thus the whole nature of the 'resettlement schemes'. Its considerable technical expertise and experience, however, was based on 'land use planning' of single large-scale commercial enterprises, so they had to adjust their thinking to smallholder alternatives without much experience. (Alexander, 2006 and Moore, 2005 both criticise this technicist approach and its bureaucratic implications.) AgriTex proposed four models for the schemes, of which the most widespread by far, Model A, envisaged smallholder farming: individual households were allocated a homestead plot, arable fields plus shared access to a sizeable area to be used in common for grazing livestock and collecting firewood and other natural products. This model provided for sub-divided arable plots, pegged out by AgriTex, for each smallholder household, with provision for common grazing.¹

A third agency, and one that was specially created for the purpose rather than a 'retread' of old agencies, the Department of Rural Development (DERUDE), was then set up within a third Ministry, Local Government, Rural and Urban Development, and charged with selecting households from those registering their need, placing them on the plots, administering the schemes, and coordinating the construction of

infrastructure, extension and access to credit. Many of the new field staff recruited for these tasks were ex-liberation movement fighters, who saw themselves as mobilisers and on the 'side of the people'; of a different ilk from the old guard of the settler-colonial bureaucracy. Although DERUDE came into existence too late to coordinate acquisition with planning of schemes, it did develop some coordinating expertise and also provided a pro-reform political constituency within an otherwise conservative bureaucracy. It did eventually come close to being a 'dedicated' land reform agency.

These three institutions were scaled back in the late 1980s and DERUDE was finally disbanded in the early 1990s as part of structural adjustment. In the process, much accumulated experience was lost. The absence of any coordinating agencies has meant that the Fast Track Land Reform since 2000 has suffered not only from an absence of planning, but also left new land users with limited, if any, support for production. The sheer scale and speed of these recent transfers have also been such that the institutions to provide technical support, credit, inputs and administration (including settlement of the many disputes over the transferred land) have been overwhelmed.

Implications for South Africa

There is no single structure that is ideal in all situations. What is appropriate will depend on the political context and the strategy for land reform. However, a number of criteria may be isolated:

- From a public administration perspective, it is important to have a capable single agency or set of institutions that can plan and implement this demanding task.
- Sheer capacity has to be on a scale sufficient for the extent of the operation and a major quantitative shift

would be necessary for South Africa to reach its targets.

- Choices have to be made about the extent to which new bodies are created or existing ones restructured and redirected to undertake the required new tasks.
- Given the multi-disciplinary nature of the tasks and the several stages of the process, **coordination** is a high priority. One strategic decision is how to achieve this: a dedicated agency or committees that network and can command executive authority.
- Both property and bureaucratic interests will be challenged in any land reform. The **political** task is not to inflate the opposing interests but to assess and mobilise the political forces that are likely to support the reforms.

Several of the country experiences above offer examples of a dedicated agency attempting to coordinate, if not always being the sole implementer of, a range of activities. However, the problems of coordinated planning and implementation were often contested and subject to conflict – perhaps inevitably. In reconstituting institutions appropriate for a second stage of land reform in South Africa there are lessons, both positive and negative, that might be applied.

One lesson is that countries were victims of past institutional architectures rooted in their past politics. South Africa is similarly constrained by the inherited dichotomous responsibility along racial lines for agriculture, land and local government, with the great preponderance of expertise and resources in those that ministered to whites. A further problem in getting institutions right is that the Constitution specifies Land Affairs as a national government competency, whereas operational responsibility for agriculture is with provincial governments. There are obvious

benefits to housing all relevant functions under one institutional roof. But this may sideline land reform in practice, if such a body is starved of a strong political voice at the centre of government and of the means to implement its plans, including an adequate budget of its own.

DLA, which has been central to land reform, at present does not have the expertise for some tasks or the will to be coordinator. Municipalities, charged with coordinating local economic development, may not be able to draw in national or provincial departments, especially Agriculture which must have some crucial technical role. Responsibility for some required tasks, e.g. for design of area-based plans, and state purchasing of land, is not clearly specified.

A new multi-disciplinary, dedicated land reform agency would perform a range of tasks. But where would it be located and to whom should it be answerable? Would it be a specialist unit within municipalities, or an autonomous body with a degree of independence? How would civil society organisations and rural communities themselves have an input into planning and holding the implementers accountable? Participatory structures should ideally seek to coordinate non-government bodies within plans, rather than have them as alternatives to government. Experiences elsewhere in the world suggest that civil society bodies are crucial in driving broad popular mobilisation without which public bodies might be reluctant to move at all.

The conclusion offered here is not to draw up a new organogram or blueprint, but to urge the need for policy debates to include a working group that can look at the range of organisational reforms that will be needed to take a new agrarian reform strategy forward.



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Footnotes

- ¹ There were also models for cooperatives, for outgrower schemes around estates with processing facilities, and for the extension of Communal Area grazing land.

Policy Options for Land and Agrarian Reform

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