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TWO DECADES OF LAND REFORM IN SOUTH AFRICA: INSIGHTS FROM AN AGRICULTURAL ECONOMICS PERSPECTIVE

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1 INTRODUCTION

Section 25 of South Africa's Constitution and the White Paper on Land Reform Policy released in 1997 demonstrated tolerance and wisdom in the country's leadership.

White Paper released in 1997 – three pillars of land reform; redistribution, restitution and tenure reform. This Lecture will focus on redistribution and restitution.

Aims:

- Review policy as it unfolded after 1994
- Highlight key lessons from the way policy was legislated and implemented
- Consider what could be done to improve land reform outcomes in South Africa.

2 WHAT WE THOUGHT WE WOULD GET POST-1994

Section 25(3) of the Constitution: ‘... the amount of the compensation and the time and manner of payment must be just and equitable’.

Minster Hanekom appreciated that compensation based on anything but market value would introduce a level of uncertainty that would discourage investment with unacceptable consequences

Sections 25(5) & (7) of the Constitution laid the foundations for land redistribution and land restitution respectively.

Redistribution was to be the main thrust of land reform, rapidly ‘de-racialising’ agriculture by creating a large number of emerging commercial farmers.

Restitution was to be a legal process intended to compensate people dispossessed of land after 1913. It was not meant to be an open-ended process.

3 WHAT WE GOT POST-1994

Target – transfer 30% (\approx 25 million hectares) of white-owned farmland to 800,000 non-white farmers by 2014.

By 2012, the redistribution and restitution programmes had together transferred a total of 7.95 million hectares.

At this rate, the total area transferred by government programmes would have grown to some 9 million hectares by 2014, with a roughly equal split between redistribution and restitution.

- but private land transactions between white sellers and non-white buyers are excluded from the official statistics.

Adding private transactions brings the total area transferred to approximately 12.5 million hectares ($\approx 15\%$) of South Africa's commercial farmland transferred during the period 1994-2014.

- a remarkable achievement considering that private land transactions are still inhibited by the Subdivision Act of 1970.

Government-assisted land purchases benefited some 460,000 rural households from 1994 to 2014, with redistribution and restitution accounting for almost equal shares of both land and beneficiaries.

Redistribution did not become the leading edge of land reform.

Rapid passage of the Land Rights Restitution Amendment Bill through the Legislature earlier this year suggests that restitution will dominate land reform in the future.

However, new policy makes restoration of land conditional on the same criteria that apply to land redistribution.

Between 1994 and 2014, each beneficiary household 'received' almost 20 hectares of farmland, but this did not translate into family-owned or even family-operated, farms.

Incentives for individual beneficiaries to invest in farming enterprises are weak and even good quality land is left idle or is used as communal grazing.

In 2010, 90% of this land was deemed 'no longer productive'.

In 2010 DRDLR initiated the Recapitalisation and Development Programme (RADP) to rescue 'distressed' land reform projects. At that time, 1807 farms were identified for recapitalisation.

4 WHY WE GOT WHAT WE GOT POST-1994

Better outcomes could and would have been achieved but for two fundamental flaws; confusion in policy and expediency in practice.

Confusion in Policy

Cash grants were the cornerstone of land reform practice from 1995 until 2010.

- recommended by the World Bank on the grounds that new entrants could not finance land with mortgage loans because the market value of land exceeded its 'productive value'.

The World Bank envisaged large numbers of emerging farmers purchasing farms of their own with cash grants and affordable levels of debt..

.. but the Department of Land Affairs saw land reform more as a means of alleviating rural poverty.

Beneficiary households had to pool their meagre grants to cover the full purchase price of a whole commercial farm.

Was the objective to establish black commercial farmers or simply to give the landless poor access to farmland?

SLAG gave way to LRAD in 2001, offering larger grants to those who could contribute savings and debt capital to finance their own farms, but which also provided small grants to the poor.

In essence, poverty alleviation set the tone and practice of land reform for fifteen years...

... but the shift towards more land reform took a step forward in 2006 when the government adopted the Pro-active Land Acquisition Strategy (PLAS).

PLAS leases high-potential farmland to chosen beneficiaries with the option of future purchase.

Then, in 2008, it introduced the Land and Agrarian Reform Project (LARP), targeting farms of 500 hectares per beneficiary, ...

... and in 2009 it discontinued SLAG and LRAD cash grants. LARP embraced the PLAS and RADP programmes as the primary instruments for both land redistribution and restitution.

Guidelines for these programmes were set out in the State Land Lease and Disposal Policy approved by the Minister in July 2013.

The new policy is very similar to that adopted by the DDA in the 1980s - which stalled because agreement could not be reached on small versus large farms.

Poverty can be addressed at lower cost by redistributing income rather than land.

Expediency in Practice

Purchase of whole commercial farms by large groups of land reform beneficiaries raised an immediate problem. To whom should ownership transfer?

Community Trusts and Communal Property Associations are much quicker, easier and cheaper to establish than are Companies or Unitised Trusts ...

... because there is no need to define members as individuals, nor to create and administer a shareholding structure linking tradable benefit rights to the equity capital contributed by each member.

But without these institutional arrangements it was predictable that these communal property institutions (CPIs) would struggle to keep commercial farmland in production.

One solution is to create parallel, investor-friendly organisations to represent beneficiary interests in commercial enterprises.

Coercing CPIs to form strategic partnerships with private investors may keep their farms productive ...

... but such community-private partnerships (CPPs) will not be sustainable if beneficiaries perceive the distribution of benefits to be opaque and unfair.

So what form should a parallel, investor friendly organisation take? The new Agricultural Landholding Policy recommends cooperatives

Cooperative models have come a long way since the Soviet era, and most developed countries have relaxed their cooperative legislation to accommodate investor-share cooperatives.

South Africa almost followed this international trend when it upgraded its cooperative legislation in 2005 but COSATU objected to a 'business conception of a cooperative'.

A Unitised Trust with tradable participation units assigned to individual beneficiaries could perform well as a business-oriented CPI ...

... providing an entry route for new members, and allowing exiting members to realise their investment by selling units to other members or to the Unitised Trust itself.

Use rights to the commercial farmland owned by a landholding CPI pass to the Unitised Trust via a long-term and transferable lease, with rental payments specified as a share of revenue earned by the Unitised Trust.

Such business-oriented CPIs could also be structured as Private Companies because limits on the number of shareholders were removed in 2011, and companies now have more opportunities to purchase their own shares from shareholders.

Regardless of whether business-oriented CPIs are established as Unitised Trusts or Private Companies, a lot more effort will have to be invested in empowering beneficiaries to maintain these complex organisations.

5 LOOKING AHEAD

The innocuous sounding State Land Lease and Disposal Policy is truly daunting and is already mandated by existing legislation. This policy applies to land redistribution and restitution, both of which are financed by the Recapitalisation and Development Fund.

Government is now responsible for identifying and purchasing farms, subdividing them into smaller units, assessing applicants and their business plans, selecting tenants, monitoring their performance, collecting rent and evicting non-performers.

Charging successful tenants market prices to purchase their farms will pose a formidable barrier to private ownership owing to cash flow problems associated with high levels of debt finance.

There is a lot that can go wrong, and it will be difficult for the government to shift the blame for delays and failures. Hence the following six suggestions for Government:

- 1 Offer emerging farmers a range of farm sizes but facilitate subletting so that tenant farmers can adjust the size of their farming enterprises to match their own abilities and resources.
- 2 Introduce a finite, diminishing interest rate subsidy for mortgage loans offered to emerging commercial farmers who wish to purchase land.

- 3 Don't take all of the responsibility for land reform. Acknowledge private land transactions between white sellers and historically disadvantaged buyers, and facilitate these transactions by removing legal restrictions that constrain the subdivision of farms.
- 4 Establish Unitised Trusts or Private Companies as parallel CPIs to manage commercial enterprises on farms owned by CPIs.
- 5 Commission experts to develop a code of good institutional practice for agents that design and broker CPPs.
- 6 Last, and most importantly, pay market prices for land purchased or expropriated from landowners for the purpose of land reform.

Thank You

