

9 *Two cycles of land policy in South Africa: Tracing the contours*

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Where a policy may fail in practice, it may succeed as composition and code. (Apthorpe 1997: 45)

The policy sciences have attempted to theorise and systematise both the making of policy and its analysis (Lasswell 1951) and have applied the principles of neoclassical economics, specifically those of rational and self-interested actors, to a policy environment. However, they have failed to generate predictive models (Fischer 1998). Instead, critics of the neoclassical approach have proposed the compilation of an anthropology of policy, dealing with the specific and contingent nature of a configuration of interests, actors and discourses that may come together in the contested and changeable – even ‘messy’ – process of policy-making (Lindblom 1959; Shore & Wright 1997). Land redistribution in South Africa presents an interesting case study of this approach, since (a) the stakes were so high and polarisation so substantial, (b) so much expertise was brought to bear in policy-making, and (c) the policy is so widely considered to have failed in achieving its objectives.

The official programme of land reform in South Africa has pursued multiple objectives, some of which are in conflict with one another. At the heart of the programme there is tension between the objectives of ‘equity’ and ‘efficiency’. The former aims to bring about changes in social, economic and political relations, at the level of individuals, households and communities, and races, while the latter aims to improve overall output and factor productivity in agriculture. This chapter explores the interests, actors and discourses that shaped land policy in South Africa in the post-apartheid era. It describes two distinct cycles of land redistribution policy-making. The chapter looks at the notions of state and market advanced by different interest groups, and identifies some of the means by which they have sought to shape policy.

There is widespread agreement on the need for land distribution based on the extent to which there is inequality in access to land, and the history of land dispossession and political contest over landownership. There is also widespread agreement that the current situation is politically and economically untenable. By 1994, landownership was dominated by approximately 60 000 white farming units, most of which were operated commercially, though many were heavily indebted and reliant on subsidies and bail-outs. Over the next decade, during which the process of land redistribution began and the economic pressures of liberalisation began to take their toll, landholding became more concentrated and, by 2005, this number had declined to 45 000. While official agricultural data refer to only these areas of the former

'white' South Africa, there are an estimated 1.3 million black smallholder farmers in the former bantustans (NDA 2006: 6).

The first land redistribution programme of the new democratic government was articulated in 1997 in the White Paper on South African Land Policy. It advocated a market-assisted programme based on the distribution of land purchase grants set at a standard level of initially R15 000 (later increased to R16 000) to eligible households – those with a monthly income below R1 500 (DLA 1997: 43–44). By 1999, the programme was brought to a halt and, after a lengthy drafting process, a new policy entitled the Land Redistribution for Agricultural Development (LRAD) programme was launched in 2001. The new policy represented a significant departure from the vision evident in the Reconstruction and Development Programme (ANC 1994). It has been hailed by some as a viable means of creating a class of black commercial farmers, and for reintroducing considerations of land use that were previously obscured; others have criticised it for abandoning the poor and failing to address the conditions that led to underutilisation of redistributed land.

This chapter briefly describes the two cycles of policy-making and then reflects on four contours of the unfolding politics of land, noting how people have spoken about land reform and in what ways and to what ends they have influenced policy. These contours are, firstly, the debate on what land reform is for; secondly, who benefits; thirdly, the roles of state and market; and fourthly, how people have participated in policy-making.

The first cycle of policy-making: 1990–97

The first phase of policy-making on land redistribution can be considered to have started in 1990, with the removal of the ban on the African National Congress (ANC). Policies were developed and elaborated through multi-stakeholder talks and policy research in the busy period leading up to and immediately following the first democratic elections in 1994, culminating in the adoption of the White Paper in 1997. Proposals for land reform in this period were highly disparate, and yet were brought together into a unified policy through years of negotiation. This might imply that compromises were made on all sides and the best combination of possible options was adopted. However, it is evident from a detailed analysis of the proposals that the demands of landless groups and non-governmental organisation (NGO) proposals were sidelined, and that the overarching framework of the World Bank proposals, modified to accommodate the ANC's imperative towards an explicitly pro-poor policy, was adopted. A sizeable core group of local 'experts' emerged during these policy negotiations. Their ideas were formed through academic study and through links with rural resistance, but they transitioned into a discourse of state planning. Although this period of policy-making involved a very open process, with those opposed to the direction the policy was taking able to reiterate their positions repeatedly, it was to little effect.

The early 1990s saw the rapid retreat of the Left in their ambitions to nationalise land and key industries, particularly the mines. This was because political liberalisation in South Africa coincided with the global demise of communist regimes and the emergence of the Washington Consensus that located economic deregulation at the core of political liberalisation. Even before 1990, the ANC's *Constitutional Guidelines for a Democratic South Africa* had focused more moderately on removing racial barriers on access to land, favouring an 'affirmative action' process of land reforms (ANC 1989).

The ANC's Land Commission, when it returned from exile, was led by a small group of thinkers for whom the agrarian question was of central importance to the future of the country. They found allies among leftist academics, who considered a class analysis of land relations to be central to land policy, and also among NGOs that had emerged during the late 1970s and early 1980s in support of resistance to forced removals. Their umbrella organisation, the National Committee Against Removals, was soon converted into an organisation with its own staff, offices and programmes, known as the National Land Committee (NLC).

A series of conferences and workshops in the early 1990s cemented cooperative relations among policy actors. These included a workshop held in Grabouw just a month after the unbanning of the ANC in March 1990, which was dominated by white academics, social scientists and agricultural economists. A workshop held in Broederstroom later that year brought NGOs and local academics together with the ANC Land Commission activists, many of whom had met each other previously at a major conference in Wageningen in the Netherlands in November 1989. Although some ANC thinkers no longer advocated nationalisation, the NGOs were still firm proponents and there were few other proposals on the table.

In 1991, NGO and ANC solidarity was galvanised by their joint rejection of the National Party's pre-emptive reforms contained in the Abolition of Racially Based Land Measures Act (No. 108 of 1991), which repealed a panoply of racialised land legislation, and its White Paper on Land Reform. The latter established a limited programme of land claims on state land and a grant-supported land purchase programme for emerging black farmers, subject to strict land use controls. The NLC argued that the National Party's arguments about economic rationality, sustainable land use practices and agricultural carrying capacity were merely a means to prevent the poor gaining access to land (DRLA 1993). As Crush and Jeeves (1993: 355) noted, 'the mass democratic movement, the alternative media, and the scholarly community united to condemn these measures as incapable of righting past injustices and overcoming the agrarian crisis'.

However, it was the negotiation of the Interim Constitution at the Convention for a Democratic South Africa (Codesa) that marked the beginning of a rift between the ANC and NGOs. As part of its Back to the Land Campaign in June 1993, the NLC supported a protest march of 500 rural community representatives to the World Trade Centre, the site of Codesa negotiations. They demanded the removal of the property

rights clause in the draft Interim Constitution and the confirmation of a right to restitution, threatening land occupations if their demands were not met. A few months later, at the Community Land Conference (CLC 1994) held in February 1994, more than 700 representatives of 357 landless black rural communities from around the country drew up a Land Charter setting out their demands (NLC 1994).

During this period the World Bank played a dual role, giving policy advice to the ANC and also attempting to recruit South Africa as an attractive new client. Between 1992 and 1994, its mission to South Africa engaged with the ANC, hosted a conference in Swaziland, brokered funding for the establishment of the Land and Agriculture Policy Centre (LAPC), oversaw a major programme of policy research and developed a set of Options for Land Reform and Rural Restructuring, which were presented and debated at the LAPC's Land Redistribution Options Conference in 1993 (LAPC 1994; World Bank 1993, 1994). It also promoted a market-based model of land reform, pointing to Zimbabwe as evidence of the model's merits, and argued that potential farmers should purchase land using their own resources and loans, and that where the market price of land far exceeded its productive value, the state should provide vouchers or subsidies (World Bank 1993). The World Bank proposals assumed that beneficiaries would use land acquired under the restitution and redistribution programmes for agricultural cultivation and livestock husbandry, exploiting inverse economies of scale and South Africa's comparative advantage in labour-intensive production (Binswanger & Deininger 1993; Christiansen 1992; World Bank 1994).

After the elections in 1994, Derek Hanekom was appointed Minister of Land Affairs in charge of the Department of Land Affairs (DLA). He inherited an apartheid bureaucracy from the former Department of Regional and Land Affairs, which he infused with new managers from ANC and NGO backgrounds to drive the policy process. By 1995, they had produced Draft Land Policy Principles, which were debated at the National Conference on Land Policy, a major gathering of 1 200 delegates in August to September of that year in Kempton Park. The proceedings of that event noted:

For the first time in the history of South Africa, people from all sectors of South African society jointly deliberated the way forward in planning and implementing land reform. Of particular importance is the great number of rural people who were assisted by the Department of Land Affairs to attend the conference – more than 400 in all... The policy which will flow from the consultative process has been immensely enriched by people's contributions, and will illustrate a clear example of the practical benefits of democracy. (DLA 1995: 4)

The NGOs and the rural lobby rejected the market-based philosophy underpinning the proposed policy. Objections that were raised included the fact that landowners would not be compelled to sell, the proposed grants were too small and potential beneficiaries would be unable to make a financial contribution towards the purchase

of land, and that giving grants to households would not secure women's rights. Also published in 1995 were the NLC's *Land Reform Policy Proposals*, which reiterated their position adopted at the Community Land Conference, notably the rejection of the overarching market-led framework and opposition to the inclusion of a clause in the final Constitution to protect property rights (the clause was being debated in the Constitutional Assembly at the time). The NLC proposed instead a proactive and targeted approach to acquiring and transferring land, including through leasing state land and promoting the transfer of privately owned land through land taxes, subdivision and expropriation (NLC 1995). The objections and alternatives put forward by community representatives were almost entirely ignored. Years later, some of these communities would call into question the benefits of democracy.

Responses to the policy proposals of the 1996 Green Paper on South African Land Policy, elicited through workshops held in all provinces as well as through written submissions, revealed the different ways in which actors viewed the policy objectives. The representatives of commercial farmers and financial institutions approved of the market-based approach. Others, including rural communities and NGOs, rejected the market-based programme, providing suggestions as to how it might be modified. They expressed concern about reliance on 'willing sellers' and called for more state intervention to make land available through, for instance, the selective expropriation of underutilised land, and the introduction of measures to alter the functioning of land markets by imposing land taxes and placing ceilings on ownership of landholdings (DLA 1997).

The Settlement Land Acquisition Grant (SLAG) proposed in the Green Paper was confirmed in the White Paper as the key policy instrument for redistribution. Provision of small sums of R16 000 per household led applicants to pool their grants and purchase land jointly. This resulted in often unwieldy attempts at collective production on former commercial farms by groups who had little prior connection with one another, in what was termed a 'rent-a-crowd' syndrome (May & Roberts 2000).

By 1999, less than 1 per cent of agricultural land had been redistributed through all the available instruments of land reform combined and government had found that each project required vastly more time and resources to implement than was originally anticipated – with the cost of implementation usually exceeding the capital cost of land purchase (DLA 2000). Substantial concessions had been made by, and within, the ANC: from nationalisation to no nationalisation; and from a principled position that there should be no property clause in the Constitution to conceding to the inclusion of such a clause in 1993 and again, though less restrictively phrased, in the final Constitution. By the end of this cycle of policy, the legal, policy and institutional apparatus for land reform was firmly in place, forming a framework for the redistribution of land through transfer of ownership, usually to groups. A sharp distinction was drawn between land restitution and land redistribution. A programme of restitution was to encompass the demand for historical redress and make concessions to demands for land on the basis of culture, history, identity and

meaning. Redistribution, instead, would be informed by a historical imperative to redress the skewed ownership of land, but would need to be justified on economic grounds. Already, tensions between 'rights' and 'development' were evident.

The second cycle of policy-making: 1998–2004

Despite the widespread view that the shift in land policy that occurred in this second cycle represented the individual visions of 'Hanekom versus Didiza', the timing of the new policy thinking suggests otherwise. The policy was already under review as early as 1998 and alternatives were being debated within government, starting with internal discussion documents and commissioned policy papers. Before the end of 1998, the DLA was considering moving away from group-based projects and expanding its programme to support individual black farmers so that they could enter commercial agriculture. After the appointment of Thoko Didiza as the new minister in July 1999, this rethink of policy took a new turn: a moratorium on further SLAG projects was put in place, pending the outcome of a ministerial review, and in February 2000 the minister announced a new direction for land policy. She attributed the need for a new policy to 'the failure of the land redistribution programme to make any significant contribution to black market-orientated agriculture' (MALA 2000b: 11), and identified the market-led approach as the source of existing problems:

The placing of responsibility on market forces, as [the] core redistributive factor has not produced the desired effect and impact. This has limited the level of choice, suitability and quality of land parcels acquired for the beneficiaries of [the] land reform program. (MALA 2000a: 9)

The new direction was at once more radical and more conservative. More state intervention would be needed and the benefits would be directed towards a new target group. The new policy, the minister suggested, would have a strong preference for market-based agriculture, rather than market-based land acquisition.

A new supply led system will be piloted with a more proactive approach to managing the allocation of land... Grants will only be available to those with a clear commitment to creating commercially viable and sustainable farming enterprises and every grant will need to be matched by a significant own resources contribution in terms of capital and loan finance. (MALA 2000b: 11)

The proposed new redistribution policy went through a series of revisions. First, the minister proposed that the one-size-fits-all approach be replaced with three redistribution 'windows', ranging from small to medium and large 'emergent farmers', with the level of state support dependent on the total project cost (MALA 2000b). Second, a joint task team of the two departments proposed two sub-programmes: a Food Safety Net Programme for the poor to engage in food production for their own consumption and a Commercial Farmer Programme to provide larger grants, leveraged with loan finance or own contributions, for emerging farmers aiming to

enter into commercial production. By May 2000, these had been combined into one integrated programme known as the Integrated Programme for Land Redistribution and Agricultural Development (IPLRAD), later shortened to LRAD, and officially launched in August 2001.

The policy process was driven by a joint task team of officials from the departments of Agriculture and Land Affairs, but the draft eventually forwarded to the minister's meeting with provincial ministers, where it was approved, was the draft presented by the Department of Agriculture, which it had developed in collaboration with agricultural economists from the World Bank and the University of Pretoria (Van Zyl et al. 1996). It proposed a sliding scale of grants ranging from R20 000 to R100 000 to be disbursed to individual applicants aiming to become farmers on any scale, and proposed removing the income ceiling, which previously had reserved land grants for the poor. Effectively, the bottom end of the scale was not very different from SLAG, while the top end approximated to the minister's proposal, the World Bank's original model from the early 1990s, and even the National Party's own reforms that had been so wholeheartedly rejected. By combining these in one, opposition to the new policy was partly defused by this compromise.

Two main public events were held to consult stakeholders on this new direction of policy. The two departments held a small consultative workshop where representatives from the Land Bank, private financial institutions and some NGOs met at the Agricultural Research Council in Pretoria in April 2000. By this time, parallel policy drafts had been written by senior officials in the two departments and a dispute arose at the workshop as to which draft should be presented. The draft eventually presented was that proposed by the national Department of Agriculture. Later that year, in December 2000, the minister hosted an *indaba*, an elaborate event attended by a few hundred delegates, at Caesar's Palace in Johannesburg. Landless people protested outside the venue and displayed their displeasure at slow delivery, as well as at the new policy, under the slogan 'No land, no hope, no vote'.

After 10 years of land reform, just over 3 per cent of agricultural land had been redistributed and, for the first time, budgets emerged as a key constraint (Hall 2004). Clearly, delivery had picked up in the second five years. Whether this was due to the revised policy is a moot point. The larger grants certainly assisted the DLA to spend its funds at a pace it had been unable to do before. The changed grant structure introduced under LRAD increased the resources available to applicants and reduced the extent of the 'rent-a-crowd' syndrome. This was partly offset by the significant rise in land prices across large sections of the country as grants had not been adjusted for inflation and therefore had, in real terms, declined.

The irony of the new policy was that most of its successes were not due to an improved grant structure – its salient difference from the previous programme – but rather to the buy-in from stakeholders, particularly agribusiness, individual commercial farmers and their organisations, and private financial institutions. The discourse of commercial farmers invoked in policy brought new partners on board and mitigated the pressure

on officials. Delivery also relied more on outsourcing planning and implementation to service providers. LRAD, however, retained some of the underlying problems evident in the previous programme. Specifically, it did not resolve the conundrums and contradictions of the three core elements of the programme: the provision of relatively small grants to people to purchase land, no provision for inflation to cope with the rising prices of land, and the insistence that land should be bought by individuals and not groups of people who could pool their resources. The continuing absence of a strategy to subdivide land aggravated this problem, as properties offered for sale had to be bought in their entirety, at market prices.

Contour I: Economic justifications of political objectives

A central undercurrent in policy debates has been disagreement on the fundamental question of the purpose of land reform. The World Bank summed this up in 1993 as a tension 'between the desire to address welfare objectives through the redistribution of land and the need to promote the productive use of agricultural land' (World Bank 1993: 34). It is telling that these objectives were arranged hierarchically: while equity was desirable, economic considerations were essential. Land policy, therefore, was considered an adjunct to agricultural policy. The purpose of state support for land transactions, in the Bank's view, was to facilitate the transfer of land from less to more efficient producers. The Bank provided a much-needed economic rationale for a political project of land reform by popularising its argument that there exists an inverse relationship between sizes of landholdings and productivity – that small farms are, all other things being equal, more efficient than large farms. Despite scepticism as to its empirical validity – arguably, all other things were *not* equal in South African agriculture – this rationale was used to underpin the notion of creating a new class of smallholders during the first years of land reform.

The ANC, too, has been torn over how its political and economic interests could be reconciled through land reform. Although the policies of the ANC Land Commission had been institutionally entrenched in the ANC's Department of Economic Planning from 1993, land remained an outlier in economic planning. Despite attempts to implement the wider visions of the ANC's Land Manifesto and the Reconstruction and Development Programme, land-based rural livelihoods had not featured strongly in economic policy, either in the pre-elections Macro Economic Research Group process of 1993 or in later policy, notably the Growth, Employment and Redistribution strategy of 1996 (Department of Finance 1996; MERG 1993). Instead, agricultural policy was located within the economic cluster of government, while land policy was located in the social cluster.

The existing landowning establishment seized the notion of productivity and employed this to draw into question the extent to which land reform might, or could, negatively impact on overall production output and agricultural exports. It is ironic that this farming sector, once heavily subsidised itself, should caution against restructuring on the grounds that free market economics would promote economic

stability, and for retaining agricultural land in production. The organisation representing white commercial farmers and agricultural commodity sector organisations, previously the South African Agricultural Union and now renamed AgriSA, noted in its policy on land reform:

AgriSA supports land reform in principle... We do however feel strongly that agricultural land should as far as possible be retained for agricultural use and production. We are not in favour of residential type developments on farmland. Agricultural land should be farmed in an economically viable and environmentally sustainable manner. (AgriSA 2000)

As in the Philippines (Reidinger 1995), as land reform became institutionally entrenched, criticism from the landed classes was increasingly couched in terms of opposition to the mechanisms employed rather than the principle.

The provision of land to the poor without any strategy to deracialise commercial farming was viewed with suspicion by some as an idealistic 'white liberal' vision of a return to an African peasantry, rather than an opportunity for black South Africans to accumulate wealth. The hostility between government and civil society on the purpose and intended target group for LRAD was inflected with racial tensions. LRAD was developed largely in response to the frustrations experienced by black farmers and bureaucrats with the white senior management of the DLA, who they maintained were only concerned with mitigating black poverty and not committed to the redistribution of land in order to provide opportunities for black farmers to accumulate wealth. As policy actors branded each other rural romanticists on the one hand and neoliberal elitist sell-outs on the other, tensions around the purpose of land and who should benefit became infused with racial tensions, both within government and in relations between the state and civil society – tensions that, at times, spilled over into the media.

Contour II: Defining the subject of policy

The central organising policy concepts in the first phase were 'households' and 'communities'. These entities were presumed to be relatively cohesive and it was assumed that there would be cooperation in the pursuance of common interests. As noted in the White Paper, 'communities are expected to pool their resources to negotiate, buy and jointly hold land under a formal title deed' (DLA 1997: 15). For NGOs that worked with communities united in their determination to get back their land, the focus on groups was considered to be a strength of the policy. White farmers, on the other hand, consistently objected to group-based land reform. The World Bank regarded it as a necessary evil to enable land to be transferred with minimal transaction costs. The reluctance to subdivide agricultural land into small portions, and the enduring attachment to the idea of 'economic units' expressed by much of the agricultural establishment both in government and the private sector, explains why a policy framework initially aimed at individual smallholder farmers ended up promoting group landownership.

In contrast to the emphasis placed on 'households' and 'communities' during the first phase, most policy discourses in the past few years have been based on the assumption that the beneficiaries are self-activating, rational agents, acting either individually or in small groups or as companies. LRAD placed onerous expectations on these 'willing buyers', who were expected to

select the chosen amount of the grant, engage a design agent if required, identify available land, enter into a contingent contract with the seller, apply for a normal bank loan through standard banking procedures, if necessary, engage a transfer agent, prepare a farm plan, submit all documentation to the local agricultural officer for an opinion, assemble the completed proposal package, and submit it to the provincial grant committee. (MALA 2001: 10)

The buyer envisaged in the policy is an educated, technically proficient, resourced and creditworthy individual – an entrepreneur. While theoretically extending eligibility to the majority of South Africans, the policy is in fact restrictive, as very few such buyers exist among the rural poor in South Africa.

The critique of LRAD as an abandonment of the poor also stems from two specific provisions in the policy. The first required that applicants hold an agricultural diploma or should be able to demonstrate that they had experience commensurate with this level of education and training. This requirement was quickly discarded, perhaps not least because there would be few such candidates and the policy would be politically untenable if it reserved resources for such a privileged few. The second was the requirement that applicants each provide their 'own contribution' of at least R5 000. This requirement was also discarded, as it would put the programme beyond the reach of the vast majority of the rural population. As NGOs pointed out, this amount was well in excess of the total annual income of many families already on farms as workers, and would exclude most of the rural poor (Nkuzi Development Association 2000; NLC 2000).

Even though the 'anti-poor' provisions were removed, and the language of policy was amended to include mention of 'the rural poor who want to farm on any scale', the critique remained (MALA 2001: 1, 3). The removal of the income ceiling meant that now the poor, the not-so-poor and the well-off would have to compete for limited resources. Without ring-fenced budgets, the better-off would stand to leverage the lion's share of funds, accessing the largest grants. Although the language and provisions of LRAD were adjusted to accommodate the flurry of critique that its publication prompted, there has been great continuity in the thinking underpinning LRAD and an exaggerated representation of how different its mechanisms are from its predecessor, SLAG.

The first policy aimed to assist 'the poor, labour tenants, farm workers, women, as well as emergent farmers' and appeal to a range of clients, 'from the poorest, especially female-headed, single parent families to emergent black entrepreneurs' (DLA 1997: 15). These long lists that incorporated race, class and gender, but

sidestepped the issue of prioritisation, were replaced under LRAD by ‘marginalised groups’ to be prioritised, namely women, farm workers, youth and the disabled. This policy clarity was undermined by the broad categories identified, and the absence of any specific mechanism to give them priority among the pool of applicants.

The discourse on land reform in South Africa has been marked by the absence of the term ‘peasant’, which was considered to be not only derogatory but also, in the modernist vision, a relic of a previous mode of production, of backwardness and of the failure of black agriculture in the bantustans. Many of the features of the type of production envisaged were precisely ‘peasant’: small petty commodity producers, engaged in production for their own consumption as well as for marketing. Policy has also been ambivalent and inconsistent on the issue of full-time farming. In LRAD, the calculation of applicants’ labour was calculated as an equivalent of full-time employment, indicating an underlying assumption that beneficiaries would farm on a full-time basis. Yet, much of the policy rhetoric on multiple livelihoods has conceded that it is not feasible to expect the poor to rely wholly on agricultural production. The multiple livelihoods already pursued by rural households, relying on remittances from urban wages of migrant household members, as well as old-age pensions and food production and, sometimes, cash income from agriculture, confirm that agriculture can be one important dimension of a diversified livelihood strategy, but that few can risk putting all their eggs in this unpredictable basket. And this does not apply only to the poor; LRAD beneficiaries farming commercially typically draw on resources from informal and/or small urban businesses – typically taxi businesses, spaza shops and shebeens – to invest in agriculture.

Contour III: Debating state and market

Underlying the disputes about what was at the heart of the failures in the first policy cycle (‘the market’, grant size and structure, inadequate funding, failure of state to facilitate effectively, or landowners manipulating the process to their benefit) was a divergence in how policy actors saw the world, how they believed policy should set about changing it, and to what ends. In particular, the debate was structured by opposing views about the relative roles of state and market. Disputes revolved around whether obstacles were due to reliance on the market itself or merely ‘market failures’, which could be remedied. Recognition of ‘market imperfections’ has led to the moderation of the World Bank’s policy positions over time (World Bank 2003). The discourse of ‘distortions’ also led the Bank and others to advocate a number of measures to tweak markets, including land taxes and in some instances a ceiling on landholdings, though they cautioned that this should not be set at too high a level.

AgriSA became increasingly well disposed to a moderate land reform policy as occupations proceeded in Zimbabwe. From its hostility towards land reform during the 1990s (SAAU 1996), by late 2000 it welcomed LRAD as a means of supporting black commercial farmers, urging the state to dispose of its own land to ‘emerging commercial farmers’ while pursuing market-based reforms when it came to privately owned land. However, it cautioned, ‘we are not...in favour of farmers profiting from

land reform and getting more for their land than what it is worth. We are not in favour of non-market mechanisms for land reform' (AgriSA 2000).

While AgriSA manipulated its definition of the 'market', NGOs, labour unions and landless people's organisations rejected the market-based policy in its entirety. The NGOs took an *a priori* position that property rights are a social relation and, as Fortin (2005) points out, promoting markets in these rights is likely to reinforce rather than remedy inequalities. Market-based land reform has elicited both principled and pragmatic objections. Principled objections have been made to the iniquity of white farmers reaping the benefits of subsidies by selling their improved properties at market value, and to the notion of 'buying back' land that was stolen. Even by 1993, the NLC saw the policy focus on market mechanisms, on production and on 'economic rationality' as politically motivated attempts to prevent far-reaching reforms and repeatedly emphasised the need to refocus, 'to continually bring debates back to the question of justice' – and thus to the realm of law and the state (NLC 1993).

The introduction of the idea of a 'demand-led' process was a key turning point in the state-versus-market debate. While the term had broad appeal, actors' conceptions differed as to whether they saw the state or the market being responsive to demands, and how this would work. The ANC's original use of the term indicated that the state would be responsive to people's demands for land and that the state would address these through a 'demand led process of land acquisition and allocation' (ANC 1992). NGOs, too, insisted that land reform should be participatory and that the state should not engage in top-down planning, but respond to the people's demands. The World Bank, its thinking rooted in the discipline of agricultural economics, adopted but reinterpreted the notion of the 'demand-led' process: the expression of demand in the land market would precipitate supply, although the inadequacy of would-be beneficiaries' purchasing power would require that their resources be augmented with state grants to enable them to become effective players in the land market (World Bank 1994). By 2000, the NLC, now disaffected with the idea, noted that a ' "demand driven" [process] will privilege the rich and educated, who may have necessary networks, resources and knowledge. These elites will hold obvious relative advantage over the poor in accessing the programme' (NLC 2000: 4).

Very little attention has been paid to the ways in which markets actually work: the extent to which they are segmented and socially embedded, and the ways in which the state can harness existing opportunities to acquire land at reasonable cost to meet identified needs by seizing opportunities for redistribution that arise in the market or proactively engaging in negotiations with landowners (Lahiff 2007). Instead, most policy debate has relied on preconceived notions of markets as being either colour-blind and efficiency maximising, or as presenting insurmountable hurdles for both would-be beneficiaries and the state. In particular, few have come to grips with the ways in which land reform in South Africa is both market (or landowner) dependent and bureaucratically mediated and constrained, thus combining some of the worst features of both state-driven and market-based land reforms.

Contour IV: Institutionalising participation

The ANC's consultations in the 1990 to 1994 period focused on 'communities' and individuals who were considered to have relevant expertise. NGOs played an important intermediary role in these consultations with rural communities. Their role was of less importance after 1994 as the ANC, now in power, was keen to establish broadly representative forums and shifted its focus to 'stakeholder groups'. Participation was characterised by consultation through a series of multi-stakeholder workshops and conferences, and through commissioned research, most of which was organised, not directly by government, but indirectly through the LAPC. The consultation process in the lead-up to the finalisation of the White Paper was characterised by large workshops held in rural communities as well as national workshops and conferences at which a broad range of interest groups were represented. Through these events, key role-players among the different interest groups – including white farmers representing AgriSA and its affiliates, commodity sector organisations, community leaders, NGO activists, land lawyers and researchers – came to know one another and were frequently able to develop friendly relations at a personal level, even though the hostility evident in their debating positions persisted.

The single greatest achievement of the rural communities and NGO movement was the enshrining of restitution as a pillar of the Constitution, to be governed by its own legislation and implemented by dedicated institutions. Sometimes, 'doing' achieved more than 'talking'. Innovations by the Surplus People Project in collaboration with municipalities in the Northern Cape led to an alternative model of land redistribution being incorporated into policy in 1996, namely the provision of municipal commonage as a public resource, to be made available to poor and disadvantaged livestock owners. By 2004, nearly half of all land transferred through redistribution was commonage land.

As the market-based redistribution policy was implemented and relations between the state and rural NGOs deteriorated, the central position occupied by NGOs in the early years was also eroded and the legitimacy of NGOs being regarded as the spokespeople for the rural poor was questioned by government; once the ANC was elected, the nature and credibility of claims to representation by NGOs were less clear. Those who had had easy access into policy-making forums, at a time when the line between state and non-state had been substantially blurred, were increasingly excluded from policy-making. Increasingly present were consultants, often former NGO staff or former civil servants, and some university-based academics, notably agricultural economists.

Outside of the DLA, policy-making and agenda setting also occurred in the Presidential Working Group on Agriculture, formed by Thabo Mbeki to bring together AgriSA and the National African Farmers' Union (NAFU), representing both black commercial and 'emerging' farmers. In 2001, the Working Group drew up the *Strategic Plan for South African Agriculture* to guide their future partnership and

to inform government policy, and located its aim to 'deracialise land and enterprise ownership' within a strategy to promote growth, competitiveness and investor confidence in the commercial farming sector (NDA 2001). The same actors drove the process of defining a black economic empowerment code for the agricultural sector that prioritised redistribution through shareholding rather than land reform (NDA 2004). By casting the issue as one of agriculture rather than land rights, those with existing interests in the commercial sector were able to create a framework for land reform policy. Since then, relations between the two have become closer and NAFU and AgriSA have even discussed the possibility of merging, though this is not imminent.

While relations between government and white and black farmers were being consolidated and institutionalised in an emerging alliance focused on the *Strategic Plan*, NGOs responded to the closing of political space available to them by turning their attention away from the state towards their constituency, in support of emerging social movements representing the landless and rural poor. Internal debates in the sector focused on the dangers of NGOs speaking on behalf of landless people. The NGO sector was split on the extent to which it should continue implementing a policy framework, to which it was opposed, or whether its main focus should be to support the social movements. With support from key NGOs, the Landless People's Movement was launched at the UN's World Conference Against Racism in 2001 and has repeatedly rejected the policy framework and threatened, but not carried out, land occupations. With the support of the NLC network, it also hosted a 'Week of the Landless' during the World Summit on Sustainable Development in 2002, bringing together a few thousand rural and urban people from all provinces.

In a similar move, the Trust for Community Outreach and Education (TCOE) and its network of rural NGOs held a Tribunal on Landlessness in Port Elizabeth in December 2003. By adopting the format of the Truth and Reconciliation Commission, and having 'commissioners' to hear testimony from the landless, expert witnesses to contextualise this and representatives of government and the private sector as respondents, the TCOE employed a powerful format iconic of the post-apartheid era. Faced with the testimony, Glen Thomas, then the deputy director general of DLA, conceded that land reform was indeed not on track and that the constraints included the 'willing buyer-willing seller' model, and the limitations of the property clause (TCOE 2004).

Forms of participation in policy-making on land reform thus changed and became institutionalised over time. At first, the NGOs were strongly integrated into ANC processes, and had privileged access to policy-making processes, together with other 'experts' from the World Bank and South African universities. When the World Bank advisors left in 1994, the main forms of engagement were more bilateral, between the state and farmers, and between the state and NGOs, serving as mediators of some community representation. During the second cycle, policy actors participated in major national events, although the big conferences were held less frequently. Inbetween, participation took the form of consultancies and tenders in which

reference groups or task teams, as well as individuals, were invited to participate. In addition, substantial portions of policy reviews and even policy development, specifically on LRAD, were outsourced.

Conclusion

The language of policy continues to perform the political function of reconciling irreconcilable politics and policy objectives in pursuit of legitimising the policy as a framework for debate. In the case of land redistribution, while failing to redistribute large amounts of land or bring about some of the economic benefits for which it aimed, policy did succeed in its wider political function of defining the terms of debate. The success of actors in establishing the language, if not the provisions, of policy is a sign of the success of the policy process in creating a 'discourse coalition'. With this shared language, policy actors waged rhetorical warfare, and among the casualties have been the much-abused and manipulated concepts of 'the market', 'demand' and 'community'.

This chapter interrogated two prevalent ideas. The first is the notion that the development of policies is a linear and rational process. This narrative shows the messiness and contingency of how policies are defined and the uneasy truces between competing interests that lead to internal ambiguity, tension and even contradiction within policy. The second is the view that the shift to the LRAD programme in 2001 marked a fundamental change in land reform. While its underlying ideology and its aims were markedly different from the preceding pro-poor programme, the similarities in the problems besetting the two appear to outweigh their differences. Now it is not only the poor but also the not-so-poor and the well-off who can credibly complain that land reform is not working for them. While the first policy cycle embraced much more explicitly a language of radical restructuring and transformation of class relations, it lacked any real provisions to realise this vision. Its successor, LRAD, initially set out an entirely different vision of deracialising the existing commercial farming sector, through the settlement of a new black capitalist farming class, but retreated from this position to one which was agnostic on who should benefit. The moderated discourse, which again reverted to an unspecified embracing of competing ideas of 'the poor' and 'emerging farmers', is evidence of the ongoing purchase of the idea of pro-poor development within South Africa. It is difficult, if not impossible, to defend a policy that directs resources to those who are financially better-off.

There remains disagreement about whether the vision changed, or whether the policy change was merely a shift in the methods through which the vision could be pursued. Of course, by arguing that the vision is unchanged, one denies that policies have changed – only mechanisms. Both the advocates and critics of the policy shift described here have enormously exaggerated the extent of change from SLAG to LRAD. Factors other than the grant design were significant in expediting delivery over time, including the delegation of powers to approve grants from the Minister of

Land Affairs to her provincial directors. There is also little recognition that LRAD, in the design of the grant leveraged by own capital and loans by emerging farmers, marked a return to aspects of earlier proposals of the World Bank and the widely rejected reforms proposed by the National Party in 1993 (DRLA 1993).

The World Bank considered land only as a productive asset, and that land reform would be used for agricultural purposes; that is, land policy was an adjunct to agricultural policy. For many South Africans, particularly the NGOs, it was the other way around. The World Bank's presumption of the efficiency of small-scale production (Binswanger & Deininger 1993) was an *a priori* position. Despite its ideological appeal, the debate on whether small-scale agriculture could work in South Africa was not settled. In the first phase, the policy emphasis on small-scale farming and land for the poor was the product of the equity and justice imperatives of the local actors coinciding (albeit not neatly) with the World Bank's inverse size-productivity relationship. This allowed the ANC to reconcile its need to address poverty and inequality with its interest in pursuing economic growth and limiting its future commitments.

It is ironic that the land policy for a new South Africa was so substantially shaped by white male agricultural economists, many of them foreign. Unlike in many other countries in sub-Saharan Africa, South Africa's policy advice from the World Bank has not been tied to funds, in the form of conditions set in structural adjustment programmes or poverty reduction strategy papers. To understand its influence, one must look to the dynamics of the policy-making process itself, the alliances that were formed in this period and the ways in which a language and set of concepts to frame policy were adopted and normalised. The view that the World Bank dictated the terms of policy misses the degree to which its attempts to 'set the agenda' coincided with domestic interests to frame land redistribution in terms acceptable to the landowning establishment and to the new incumbent government's priority to stabilise the rural areas and secure investor confidence in the economy, while at the same time addressing poverty and the demand for land redistribution.

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