

GREEN PAPER ON LAND REFORM

Presentation to the Portfolio Committee on Rural Development and Land reform

18 April 2012



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REPUBLIC OF SOUTH AFRICA

Key Policy Questions

- ‡ Why should the State continue to invest in transforming land relations?
- ‡ How important is land reform in South Africa today?
- ‡ Is South Africa still primarily an agrarian society?
- ‡ With the extent of the historic dispossession and transformation of the majority of the dispossessed into wage-workers, is there an agreement about:
 - the demand for land in South Africa? and
 - the purpose and prospective beneficiaries of land reform?
- ‡ Can land reform represent a radical and rapid break from the past without significantly disrupting agricultural production and food security?



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Policy Statements

- ‡ Instilling *national identity, shared citizenship and autonomy-fostering service delivery* are the primary reasons why the State must continue to invest in the transformation of land relations (systems and patterns of control and ownership of land).
- ‡ The rationale behind State investment in, and the enduring demand for, land is to be found in the historical background of what has been described by some scholars as “*accumulation by dispossession*”. (Arrighi G, Aschoff N & Scully B. *Accumulation by Dispossession and Its Limits: The Southern Africa Paradigm Revisited*. *St Comp Int Dev* (2010) 45:410–438)
- ‡ The current economic structure of South Africa, as a result of this historical process, has produced net factors which *undermine the conditions for fostering social cohesion and development amongst those previously dispossessed of their land*.



Land Reform Principles

The **principles** which underpin the new approach to sustainable land reform are:

‡*Deracialisation of the rural economy;*

‡*Democratic and equitable land allocation and use across gender, race and class; and*

‡*Strict production discipline for guaranteed national food security*



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PROGRESS REPORT ON GREEN PAPER

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BACKGROUND

The deadline for the submission of the comments on the Green Paper on Land Reform was extended to 31st December 2011. Subsequently, the Department was required to consolidate comments and submissions and develop policy and legislative proposals.

The Minister met the National Reference Group (NAREG) on Land Reform in November 2011 and constituted specific technical Working Groups (WG's) in respect of certain policy proposals made by the Department in the Green Paper.



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THE GREEN PAPER WORKING GROUPS

- Land Management Commission
- Land Rights Management Board and Committees
- Land Valuer General
- 3-Tier Tenure System
- Communal Tenure
- Legislative amendments



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1. Land Management Commission

Amendment of Act 126 of 1993: Formulating a new Act of Parliament could take longer due to long-winded procedures,

- ✓ LMC will be a creature of statute,
- ✓ There was general consensus about certain issues of the LMC.
- ✓ Various opinions were made regarding the functions/powers of the LMC, i.e.:
 - ✓ Advisory, Coordination, Regulatory, Auditing and Reference point,
 - ✓ powers of LMC to subpoena anyone as well as validating/invalidating of title deeds
- ✓ Written submissions have been received



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Land Management Commission

✓ Other issues/comments raised:

Is the LMC similar to the restitution commission?

- Will the LMC do a land audit on all land (state and private land)?
- Will the functions of the LMC be quasi judicial or administrative of nature?
- Filling gaps in green paper (reference was made of previous green paper).
- Role of public works on LMC.
- Duplication of roles of existing institutions.



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2. Land Rights Management Board

Policy Proposals

- LMC and the LRMB to be consolidated to avoid possible overlapping of functions.
- The LRMB must be a voluntary association.
- All stakeholders must be represented at Board and Committee level.
- LRMB to have mediation role on tenure disputes on commercial farms, provided it occurs at local level.
- There must also be provincial stakeholder forums.
- LRMB to have a clear monitoring role on tenure disputes and evictions.
- Clear monitoring standards to be developed.



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Land Rights Management Board

Policy Proposals

- Agri-villages in commercial farming areas to only cater for current and ex-farm workers and their families. They should not be rural settlements of people with no connection to the farming way of life.
- **No strategy proposed as yet**

Legislation

- Land Tenure Security Bill constitutes a point of departure, however the issue still needs to be taken further by the Working Group.



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3. OFFICE OF THE VALUER GENERAL

- Overriding consideration (Objectives) for the Office of the Valuer General is to ensure that the State obtains value for money for public resources.
- Is in the public interest that the State has at its disposal appropriate institutions with the mandate and capacity to render independent and objective advice on matters relating to valuation of land and property
- Land and property markets must be both efficient and equitable, i.e. detailed information about how these markets work must be collated and analysed, to aid policy making by the State, and consumption and investment decisions by households and firms.
- Valuation industry must be well regulated, operate according to best practice in terms of norms and standards, and is sensitive to the South African environment.

4. Three-Tier Tenure System

The Working Group met 25 January to consolidate work completed in November 2011.

Terms of Reference were developed for specialist research, analysis, case studies and legal review on the proposed limitations on land-holdings or land ceilings.

Further TOR were circulated for policy and legislative finalisation of work on ownership of land by foreigners.



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5. Communal Tenure and Legislation

- To consider legislative amendments linked to the Green Paper
- Consequent to ongoing work by other workstreams, the group was tasked with focusing on the amendments of:
 - Communal Property Associations Act, 1996
 - Restitution of Land Rights Act, 1994
 - Review of CLaRA and the related judgment



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6. Communal Tenure and Legislation

The Legislation Working Group decided to combine with that on Communal Tenure because of legislative amendment of the CPA Act and legislative development to replace CLARA.

Terms of Reference were developed for research and analysis of communal tenure systems in South Africa and elsewhere, alternative tenure options and conversion models.

Specialist studies and analysis is further required on appropriate land holding entities and their relationship with traditional and local authorities.



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CONCLUSION

All Working Groups will meet to attempt to finalise policy and strategy proposals, and legislative development.

This will then require certain Working Groups to meet jointly to ensure that institutional proposals are consistent

Research and specialist studies are required to be completed soon.



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