

The limits to land reform: reviewing ‘the land question’

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‘The resolution of the land question ... lies at the heart of our quest for liberation from political oppression, rural poverty and under-development,’ stated the first ANC Minister of Land Affairs, Derek Hanekom, on the occasion of his maiden budget speech to Parliament in September 1994. In this speech he went on to outline the framework of a land reform programme intended to achieve that resolution:

- the restitution of land rights to the victims of forced removals
- the redistribution of land to address land hunger and needs; and
- providing security of tenure (Hanekom, 1994: 2).

That the land question was one of the driving forces of the liberation struggle was a viewpoint that Hanekom shared with most ANC supporters, including many who did not depend directly on the land for survival. It is a position that many, if not most, black people still endorse today, even though the evidence points to a far greater concern with jobs, housing and the provision of basic services as immediate priorities in people’s day-to-day lives. (A 1999 survey found only 1,3% of South African respondents listing land among the top three problems that the government should address, yet a 2001 survey found 68% of black respondents agreeing with the statement that ‘Land must be returned to blacks in South Africa, no matter what the consequences are for the current owners and for political stability’ (Aliber and Mokoena, 2003: 342, 344).) The inability of the state’s land reform programme to transfer more than three per cent of the country’s farm land to black ownership over the past nine years is seen not simply as a failure in land policy but, more fundamentally, as a failure to transform the very nature of society - to address black claims to full citizenship, through land ownership, and to make amends for the insults to human dignity that black people have suffered as a collectivity through forced removals in the past.

In a country scarred by a violent history of racist land dispossession, deep inequalities and persistent poverty (especially, but not only, in the rural areas), Hanekom's vision of the relationship between liberation and land reform was – and remains – viscerally compelling. Yet, in contrast to the rhetoric of transformation with which the commitment to land reform is garlanded on formal occasions, 'the land question' has consistently occupied a rather lowly place on the ANC's transformation agenda (Klug, 2000; Hart, 2002). In part because of this marginalisation, in part because of the unanticipated complexities of making land reform happen in practice – at which point the grand unity of 'the land question' fragments into a kaleidoscope of particular, localised, messy, often conflictual and personality-inflected projects - land reform has thus far failed to meet the various targets that the ANC has set for it since 1994. This failure has, in turn, led to a growing erosion of confidence, across the political spectrum, in the ability of the state to manage a significant land reform programme, whether in the interests of redistributive justice or of political and economic stability. And, as Zimbabwe's shadow has loomed larger across the region, this has increased the political tensions around the programme, in contrast to the heady, hopeful days of 1994. (See Informal 'think tank', 2003a.)

To what extent these dynamics will succeed in shifting the programme from the margins into the centre of political debate and attention remains to be seen. Yet what I want to argue here is that, even if land reform were to receive more sustained attention as a programme of government, a serious mismatch is likely to remain between the political aspirations and popular expectations that surround 'the land question' and the transformative potential of land reform itself. It is this mismatch, rather than the modest achievements of the programme *per se*, that constitutes the major faultline of land reform towards the end of the first decade of democratic government in South Africa.

I do not want to overstate the dimensions of crisis. Part of my contention is that land reform is necessarily a slow (rather lumbering) and incremental sort of process, which is poorly served by analyses that turn on the idea of dramatic ruptures or turning points, such as that of crisis. Agrarian issues remain, furthermore, of secondary importance, both politically and economically, despite the strong rhetorical and emotional appeal that land reform holds for most South Africans. At an informal workshop in March 2003, it was proposed that 'impasse' is a more accurate term for describing the current state of land reform in the country, and this is the perspective I hold for now (Informal 'think-tank', 2003b: 4).

In this article I explore these ideas through a set of reflections on different aspects of the land question in South Africa. I begin by sketching the dimensions of what that question is popularly assumed to cover and the tensions that exist between its general and its particularist versions. I then look at how a moderate programme that prioritised restitution and market-led redistribution emerged out of the political compromises that made the constitutional settlement of the early 1990s possible. Thereafter I consider the limited achievements of land reform to date (the impasse in delivery) before highlighting what is, arguably, a more seriously neglected area of research – the constraints on land reform that derive not from the politics of the past but the impact of critically important demographic, ecological and social forces on redistribution in the present. In concluding I argue for a reconceptualisation of what it is that land reform can do. The terrain I cover is vast, my account necessarily compressed.¹

What is the question? The burden of history

For most South Africans the ‘land question’ is a descriptive phrase rather than a theoretical construct, with two major elements. The first is the history of colonial conquest and apartheid dispossession, whereby white settlers appropriated 87% of the land for themselves and reserved a mere 13% for the subjugated black majority. During the apartheid era this involved the forced relocation of more than 3,5 million people (Surplus People Project, 1983: 6), which intensified deep social dislocation, ‘displaced urbanisation’ (Murray, 1988) and a radically dysfunctional spatial dispensation. Inextricably linked to this history of dispossession is the second aspect of the land question – that of the well-documented decline of black peasant agriculture over the past 100 years or more and the impoverishment of those people tied to the remnants of land set aside for black occupation.

Based on this reading of the past, the resolution of the land question lies in reversing the shameful history of dispossession and restoring and/or redistributing rural land to black people. ‘Race’ along the lines consolidated by the apartheid state is the key contradiction; gendered inequities, pushed to the fore by women activists, get a courtesy nod on special occasions (Walker, 2003a). The land question is embedded in discourses around rights, social justice, and identity that operate generally within a group rather than an individual paradigm. There is a substantial literature that looks at the relationship between redistribution and economic development, but in the popular account the connection between land rights and enhanced

livelihoods or economic growth tends to be assumed rather than examined.

The broad history of land dispossession in South Africa is a familiar one. What is less commonly remarked is that this history operates at two different levels: as a general, popular account informing our political life, and as a multiplicity of actual dispossessions, with particular, usually strongly local contexts and dynamics, which is the level at which land reform must become operational. The two levels are linked but function largely as independent domains, with different consequences for policy. The former urges speed in settling as many land claims and redistributing as many hectares in as short a time as possible. The latter demands time for proper beneficiary identification, participation and institutional development; it valorises attention to process and not just outcomes in planning, implementation and the provision of services once land has been transferred. While the state's land reform programme is making uneven inroads on the domain of the particular, it has been less successful in the domain of the general, with its deep, associated hunger not just for land redress but for far-reaching change in the general pattern of people's lives.

The popular account of land dispossession invokes a history of conquest and exploitation that black people have experienced as a unified collectivity, and thus supports a general claim for redress on behalf of all black South Africans. In working at the level of the general it glosses the contrariness of the actual. The narrative enshrines a collective memory of dispossession that stretches back uninterrupted for 350 years, over an imaginary, unitary (in essence, a contemporary) South Africa, an apartheid-anticipating country that sprang into existence when the Dutch East India Company first established its refreshment station at the Cape in 1652. A recent article by the Research Coordinator of the National Land Committee (NLC) draws upon this account in an almost formulaic rendition of the past as template for the present - the role of this history to endorse, rather than explain, current demands for a radical redistribution of land from white to black:

Relocation and segregation of blacks from whites started as early as 1658, when the Khoi were informed they could no longer dwell to the west of the Salt and Liesbeck rivers, and in the 1800's, when the first reserves were proclaimed by the British and the Boer governments.

The *Native Land Act* was also passed in 1913. This Act restricted the area of land for lawful African occupation, and stripped African cash tenants and sharecroppers of their land and consequently replaced sharecropping and rent-tenant contracts with labour

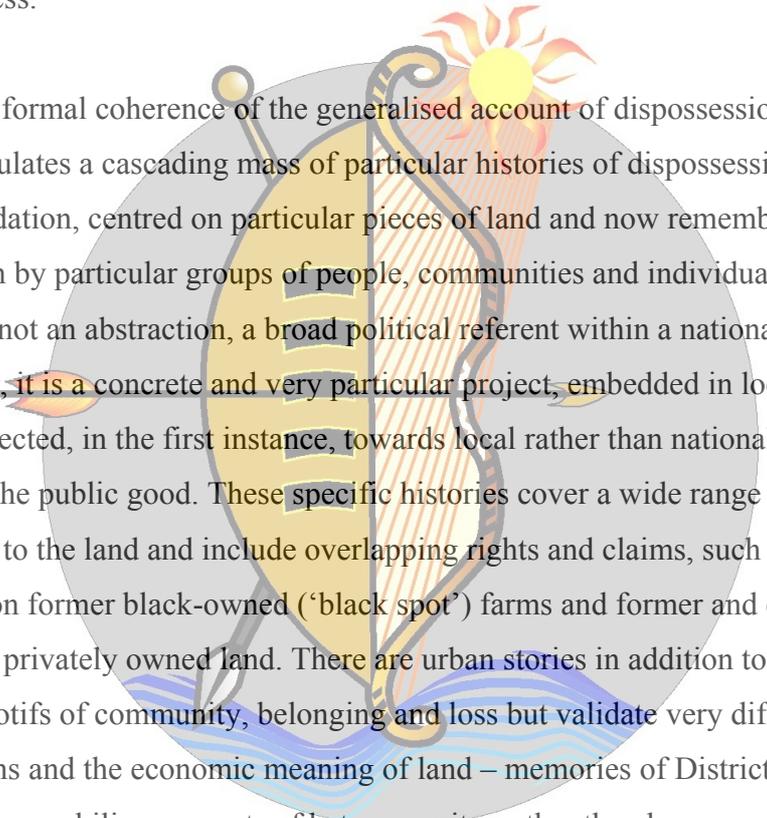
tenancy. The *Native Land Act* resulted in only 10% of the land reserved for blacks. In 1923, a principle of separate residential areas in urban locations was established, and this principle was extended by the *Group Areas Act* of 1950. In an attempt to deal with problems of forcing more people to live on small areas of land, betterment planning was introduced (Thwala, nd, 2).

For many land activists, indeed for many South Africans, this history of dispossession is constitutive of the social and political identity of black people as a group, inclusive of people who may not themselves have experienced land loss or forced removals (may even have benefited from such processes in the past). It is this historically sanctioned political identity that informs the approval shown by many black South Africans for the chaotic and corrupt land redistribution campaign launched by President Mugabe in neighbouring Zimbabwe. In this telling of the past, conflict and competition for land within and between black communities is largely erased, along with any unsettling evidence of alliances or intrigues that might have linked black and white in more ambiguous relationships around land in the past than are now considered possible. An acknowledgement of white investment in or identification with the land over the course of these past 350 years is generally absent – unimaginable – as well. At its most extreme, this truncated history leads to the conclusion that all black people living in the rural areas are today landless, the position adopted by the Landless People's Movement (LPM), which has publicly put the total number of landless in South Africa as 26 million black people, a figure made up of 19 million in the rural areas, i.e. all black people living in both the former reserves and the former white farmlands, and 6 to 7 million people in the urban areas.²

In the general account of dispossession, the 87% of land in which black ('African') people were historically excluded from acquiring secure land rights (along with rights of citizenship and permanent residence) remains the unexamined measure both of loss and of redress. Yet this figure is no longer a sufficient indicator of the dimensions of social and economic inclusion and exclusion. The 87% covers all land not scheduled or released for black occupation after 1936; it thus includes all urban areas, where today the majority of the population and the greatest concentration of wealth are found, as well as all state-owned public land such as national and provincial parks, SANDF bases and other public-purpose properties. The former 'white' countryside comprises just under 68% of the land area in the country, much of it unsuited to cultivation, which is today owned by a very small and steadily decreasing proportion of the total population. The 1996 census enumerated just under 61,000 farm units (Statistics South Africa, 1996: 3), while an Agri-SA official estimates that today there are somewhere in the region of

40,000 large-scale commercial farmers operating in the country, the great majority but no longer the totality of whom are classifiable as white (interview).

It is thus possible, at least theoretically, to deracialise the commercial farming sector radically – i.e. in its entirety, by substituting 40,000 black for 40,000 white farmers – without effecting a correspondingly radical redistribution of land to the approximately 675,000 households in the former bantustans that more conventional estimates than those of the LPM describe as landless (Aliber and Mokoena, 2003: 336). Forty thousand households – even sixty thousand households – is less than one per cent of the total population of South Africa and well under 10% of the landless.



In contrast to the formal coherence of the generalised account of dispossession, the domain of the actual encapsulates a cascading mass of particular histories of dispossession, resistance and/or accommodation, centred on particular pieces of land and now remembered and recast for official validation by particular groups of people, communities and individuals. For them ‘the land question’ is not an abstraction, a broad political referent within a national (nationalist) discourse. Rather, it is a concrete and very particular project, embedded in local histories and dynamics and directed, in the first instance, towards local rather than national needs and constructions of the public good. These specific histories cover a wide range of tenure forms and relationships to the land and include overlapping rights and claims, such as those of tenants and landowners on former black-owned (‘black spot’) farms and former and current residents on both state and privately owned land. There are urban stories in addition to the rural, which invoke similar motifs of community, belonging and loss but validate very different notions of community origins and the economic meaning of land – memories of District Six in Cape Town, for instance, mobilise concepts of heterogeneity, rather than homogeneity, in a defiantly cosmopolitan urban space. (See McEachern, 2001 and Nagia, 2001.) Often particular narratives of dispossession and restitution involve conflict among and within groups and competing claims for redress. Options for restitution are, furthermore, constrained by current conditions on the land in question, as well as by changes that the claimants have themselves undergone in the years since they were dispossessed. At this level the claim for land is finite, yet its realisation may be riddled with unintended consequences, even disappointments, for claimants.

An illustration of these conundra can be found in the prominent Bhangazi claim on the Eastern Shores of Lake St Lucia, in KwaZulu Natal, in what is now the Greater St Lucia Wetland Park

- a World Heritage Site and wetland system of ‘international importance’ under the Ramsar convention.³ This claim pitted against each other two very different local histories of how the Eastern Shores first came to be settled and by whom, along with two very different interpretations, both based on the same genealogy, of the constitution of clan identity and political authority in the area since the 19th century. One set of claimant representatives described an isolated, self-sufficient and autonomous coastal clan whose only interest was to return to the land from which they had been gradually but inexorably displaced by a combination of state forestry and conservation authorities over two decades in the mid 20th century. Another set of representatives articulated a confident tribal suzerainty that drew on both apartheid and pre-colonial discourses of tribal identity and clan hierarchies for its legitimacy. They claimed ownership of the Eastern Shores not for settlement purposes but to control the mineral wealth (the titanium) that glistened in its dunes (Walker, 2003b).

The views of the people who were represented by these two violently hostile sets of spokesmen (they were all men) are more difficult to reconstruct – since the mid-1950s the four or five hundred households that once made up the population of the Eastern Shores have been fragmented and dispersed across a number of neighbouring communities. They have not been, for many years, a bounded, clearly identifiable group with a single relationship to their ancestral land. A survey of preferred settlement options that the Land Claims Commission conducted in 1998 indicated that, if required to choose between land and financial compensation, the overwhelming majority of those canvassed would opt for money. However, the survey was conducted at a particular moment in the history of the claim, when the opportunity to resettle on the land or to lease it for mining appeared already foreclosed to many claimants, and it is always difficult to disentangle preference and pragmatics in such polls.

In the late 1980s and early 1990s the different interpretations of past and present at the local level were yoked to competing external visions for the development of the Eastern Shores. Local residents of the area, extending beyond the small number of households who had once lived on this spit of land, found themselves divided over and ultimately subordinated to larger national and even international interests, for whom the competing land claims provided both complications and opportunities. On the one hand there were major mining interests, which defended the chiefly claim to the land; on the other, there were conservationists, who argued for the protection of the wetlands and dunes against both mining and human settlement as in the best and broadest public interest. This group looked with most favour on those among the

former residents who were prepared to articulate their opposition to the Tribal Authority. In 1996, after some hesitation, the ANC government decided in favour of conservation/eco-tourism, rather than mining, as the development strategy for the Eastern Shores, the benefits of which were intended not only for those who claimed it as their land but for a larger 'community', encompassing all the impoverished residents of the wider region. The land claim was finally settled three years later, after an intensive process of research, conflict management and negotiations which resulted in an agreement that combined financial compensation for the former residents with the establishment of a community Trust, with a stake in the future development of the Park.

Implementation of the agreement is, in 2003, still in its infancy. Tensions continue to swirl around the Trust leadership, although the violence of the early negotiations phase has receded. A major challenge facing the Trust is how best to manage and disburse to its dispersed members, in a developmentally sound manner, the funds from Park operations that are beginning to accumulate in its account. While the trustees are being drawn into co-management activities with the Park as representatives of 'the community', the difficulties of including former residents in processes of consultation and representation remain. People who are aggrieved that they were excluded from the financial payout complain about the premises on which the settlement was based; high, entrenched levels of poverty and unemployment in the region mean that the mining option still has a lurking, local appeal.

The complexities illustrated by this brief case study can be replicated many times over across the approximately 69,000 claim forms lodged with the Land Claims Commission between 1995 and 1998. In late 1999, when I was Land Claims Commissioner for KwaZulu Natal, trying to make land restitution work, I reflected on the disjuncture between what I described then as the 'master narrative' of dispossession and restoration and the confounding difficulty of settling land claims in their individual particularity twenty, thirty, forty, fifty years after the people had been removed:

As political fable the master narrative works very well, but as a basis for a programme of government the simple story of forced removals is increasingly problematic. The problem is not that its constituent elements are not (broadly speaking) true. The problem is that the narrative is too simple. The elements it assembles are incomplete. ... the story stops at the point of dispossession and does not ... consider carefully and dispassionately what has happened to communities and to the land in subsequent years. ... As a guide to practical action it can be dangerous (Walker, 2000: 7-8).

Realising rhetoric: the constitutional negotiations

In the constitutional negotiations of 1992/1993, both popular and particular accounts of land dispossession came together politically in a way that ensured that restitution for the forced removals of the 20th century emerged as the key negotiating point around which the post-1994 land reform programme would be constructed. Although the proponents of land reform always envisaged land redistribution and tenure security for farm dwellers and residents of the former bantustans as essential to a new land dispensation, these issues were submerged within a debate which focused increasingly narrowly on land and property rights - past and present. Debate on critically important but politically less immediate policy challenges, such as the relationship between land reform and future economic development (rural and urban), was deferred.

A detailed history of the manoeuvrings around the shape of the post-apartheid land reform programme during the constitutional negotiations is beyond the scope of this section, the main purpose of which is to contextualise the discussion on the problems of delivery that follows. Here I outline key features of the debate as it unfolded among the three main sets of players – the ANC, the National Party (NP), and a cluster of community- and NGO-based land activists who sought to propel their understanding of the land question towards the centre of the negotiations.

The history of race-based land dispossession has always occupied a prominent position in the ANC's account of the liberation struggle, beginning with its own formation in response to the Natives Land Act of 1913. In 1986, before the negotiated transition to democracy appeared imminent, Joe Slovo went so far as to claim that 'the redistribution of the land is the absolute imperative in our conditions, the fundamental national demand' (cited in Claassens, 1991: 43). Yet such expansive claims were, certainly by the late 1980s, largely rhetorical. Heinz Klug, who helped establish the ANC's Land Commission within South Africa soon after the organisation was unbanned, recalls that 'despite the assumptions and the liberation movement's general rhetoric on the 'Land Question', activists ... had a realistic view of the low priority rural issues had on the mainly urban-based ANC's political agenda in the late 1980s' (2000: 132).

In a paper to a land policy workshop on the eve of the unbanning of the ANC, Zola Skweyiya, who chaired the ANC's Constitutional Committee during the negotiations, gave some important

pointers on how thinking on the land question was evolving. He described land reform as central to the struggle for national liberation but hinted at its marginality by noting that it 'deserves more attention from all progressive forces' (Skweyiya, 1989: 1). He also tempered the call for redistribution by arguing against the destruction of the commercial agricultural sector, because of its importance for national food security and its contribution to foreign exchange. His assessment of the process by which the details of the future programme would be established was pragmatic and prescient:

The balance of power at the time of attaining the final solution, especially between the liberatory forces and the present ruling elite and its political parties, multinational corporations, commercial farmers, civil servants etc., will play a significant role. Further, the support and technical assistance of international organizations and donor agencies would be central, just like the support of the international community. Last but not least, the availability of a skilled personnel to plan the land reform programme would be central and essential (ibid: 16-17).

The process of negotiating the transition to democracy led to a further downscaling by the ANC leadership of the importance of 'the land question', which was consistent with the organisations's general shift to the political centre as it turned its attention from fighting a liberation struggle towards fashioning substantive economic policies, that, in the words of Hein Marais (1998: 147), could 'win consensual endorsement.' Land became an issue for strategic compromise early on. Already at a conference convened by the ANC's Constitutional Committee in May 1991, a senior member of the negotiating team expressed dismissive impatience with members who questioned the political need to accept constitutional protection for property rights (Klug, 2000: 126). In April 1992 the National Land Committee (NLC) fretted that the ANC's Constitutional Committee was already 'arguing a compromised position as they enter negotiations' and asked: 'What will happen if they are forced to compromise on this compromised position?' (NLC, 1992: 3-4). Yet ANC compromise to the point of denying the popular demand for redress for the dispossessions of the past was never on the table. Although its leadership was determined that the transfer of power should not be risked, nor the country plunged deeper into crisis, by an insistence on a radical programme of redistribution, the gross inequities around land and wealth in South Africa, the power of the narrative of dispossession, and painful memories of forced removals that many in the ANC leadership had themselves either witnessed or experienced, all combined to ensure the persistence of the restitution agenda.

While land reform was a relatively low priority for ANC negotiators, it was at the forefront of NP concerns, which was anxious to protect the property rights of its supporters against demands for nationalisation and a major programme of state-led land redistribution:

Private ownership of land, including agricultural land, is a cornerstone of the Government's land policy. Private ownership gives people a stake in the land, offers social security, promotes the optimal use of land and also stimulates an awareness of the importance of the preservation of this valuable resource. This is in keeping with the Government's opposition to any form of redistribution of agricultural land, whether by confiscation, nationalisation or expropriation (Republic of South Africa, 1991: 13).

In this stance the NP spoke for both rural and urban propertied classes. During the negotiations it became the most important conduit through which the influential views of urban-based big business impacted on the content of the property clause negotiations - Sheila Camerer, an NP Deputy Minister of Justice at the time, remembers a battery of high-powered lawyers scrutinising the various drafts of the property clause on behalf of major companies in the final phases of the negotiations (interview).

Initially strongly opposed to land restitution as 'impractical' (Republic of South Africa, 1991: 6), by 1993 the NP was prepared to negotiate a trade-off between a land claims process for those who had lost formal land rights in the past and guarantees for existing property rights into the future. Already in 1991 it felt obliged to defuse the protests of particular dispossessed communities by instituting a limited programme for land claims on state-owned land. Its 'Charter of Fundamental Rights' of February 1993 did not specify a right to restitution but, within a strongly pro-market framework, did recognise property expropriation 'for public purposes', subject to the payment 'of an agreed compensation or ... compensation in cash determined by a court of law according to the market value of the property' (Republic of South Africa, 1993: 11). By then the NP had accepted that land restitution need not constitute a fundamental challenge to the sanctity of private property - could even confirm that.

In this context the main lobby group for a radical programme of land reform was a network of land-rights organisations and rural communities with its roots in the struggles against forced removals in the white countryside in the 1980s. In the early 1990s the views of ordinary rural people on land issues tended to be represented to negotiators on both sides of the table by the small number of relatively well-organised rural communities within this network. The most articulate of them were the so-called 'black spot' communities, where people had enjoyed

freehold rights prior to their removal and who wielded the language of rights, justice and belonging with confidence and conviction – communities such as Roosboom, Cremin, Alockspruit and Charlestown in KwaZulu Natal; Driefontein, Doornkop and Mogopa in the then Transvaal, and Tsitsikamma and Mcleantown in the Eastern Cape. In its ‘Back to the Land’ campaign this network fused the general and the specific accounts of dispossession. The energy emanating from local struggles for land restoration drove the general campaign for land reform and guaranteed the primacy of the restitution agenda above other land issues beyond 1994. (See AFRA, 1992 and 1993a.)

Less public, but in the longer run probably more influential, was the Land Claims Working Group, which was established in 1991 among individual NGO members and lawyers within this network, who also enjoyed close links with individuals in the ANC’s Land Commission and constitutional negotiating team. The group’s brief was to develop concrete policy proposals on land restitution for the negotiations and for a future government programme – its draft restitution bill was ready even before the ANC took office in 1994 (interview, Budlender). Key members identified the NP insistence on market-value compensation for current property owners as the biggest threat to meaningful land reform, fearing that this would ‘condemn those who were systematically dispossessed of their land under apartheid to remain so by making meaningful land reform prohibitively expensive’ (Claassens, 1993: 60) - a concern that has since continued to animate organisations affiliated to the NLC (which constituted itself at this time within the network).

The Land Claims Working Group was significant in two other respects as well. Although the wider network initially debated whether it was appropriate to include urban land claims within the same programme as rural (see SAETF, 1992), by mid-1993 the prevailing view in the Working Group was that it would be morally and politically indefensible to exclude urban claims. ‘Indeed, if urban claims are excluded ... the Act may be perceived as having a racial bias,’ commented a memorandum on the proposed ‘Land Restoration Act’ in July 1993. ([Land Claims Working Group], 1993: 3). It is hard to see how, in the context of negotiating a non-racial, democratic order, urban claims could have been left out. However, while the Working Group flagged the need for ‘different sorts of solutions’ for urban claims within the framework of a common act, what these might be was not actively pursued in the policy rush of 1993/1994; subsequently urban claims put considerable pressure on a process designed primarily with rural claims in mind.

The Working Group was also responsible for designing the basic institutional arrangements for restitution, including a bifurcated structure consisting of both a Land Claims Court and a Commission; until an administrative route was opened up in 1999 this created a very cumbersome, legalistic process for finalising claims. Initially the land-rights lobby strongly favoured a rights-driven, court–overseen process in the belief, derived from bitter experience in community struggles in the 1980s, that unless rural people’s rights to land were enforceable in court, their security of tenure would remain vulnerable. As the property rights debate heated up, however, an international adviser involved with Maori claims in New Zealand cautioned against an overly judicial model, on the grounds that poor, uneducated people would be disadvantaged by the expense and formal legalism of the process (Claassens, interview). However, by then the NP had fervently adopted the idea of an independent land claims court as a bulwark against what it feared might yet be a rampantly socialist ANC government. In what Claassens describes as one of the great ironies of the negotiations, the NP came down strongly in favour of a court-driven process just as proponents of a court in the ANC camp wanted to reconsider:

Suddenly we all shifted sides, We had wanted the process to be court-driven because we were so used to people being weak that they needed the law to defend them. And suddenly [the NP] were scared about anything that was going to be politically motivated and they made it conditional, the whole restitution/property clause deal, that it must be a court-driven process. ... We heard that [the ANC negotiators] had agreed to those terms and we were hoping ... that it could be re-negotiated because by then we were all convinced, we had seen that it was going to backfire. The irony is just extraordinary. It became apparent that, actually, the people who were arguing for more rights were the people who were going to be in government and the rights were going to be against the government, and suddenly the Nats were saying: *Ja*. ... And you got this shifting of positions to do with the fact that people just weren’t used to where the power was going to fall (interview).

In the high drama of the moment there was little space for thinking through the actual requirements for implementing a future restitution programme - procedures, budgets, staff. Additionally, although keenly aware of the other dimensions of land reform, the land-rights network did not develop systematic proposals beyond restitution in this time. Equally problematic, the land and property rights debate unfolded largely in isolation from the economic policy debate raging at the centre of the constitutional negotiations - one of several parallel, autonomous, ‘specialist’ streams at this time (Walker, 2001). The fragmentation of the debate assisted the World Bank advance its ‘Options for Land Reform and Rural Restructuring,’ which it released late in the negotiating period, in October 1993. This document drew on a research

programme run by a policy research centre aligned to the ANC, which the Bank had supported, to argue for a grant-driven programme of redistribution that would promote small farmers within a willing buyer/willing seller framework for land acquisition. According to the Bank's calculations, it would cost the state R17,5 billion to transfer 30% of agricultural land over five years (World Bank, 1993: 73-4) – in this projection, it would seem, lies the origin of the figure of 30% which subsequently became an official land reform target for the ANC.

By late 1993 political pressure was mounting on all sides to bring the protracted constitutional negotiations to an end and finalise the terms of the transitional arrangements. In the end agreement on the land/property clauses was only reached in the very final stages of the negotiations (Atkinson, 1994: 135). The interim Constitution (Act 200, 1993) establishes a clumsily drafted compromise that deals with land issues in three separate sections - indicative of the intensity of its fears, the NP resolutely refused to countenance a single clause for both property and restitution rights. The hotly debated property clause thus appears to stand on its own; it upholds property rights but allows land expropriation for undefined 'public purposes', subject to the payment of 'just and equitable compensation,' a phrase that was many months in the making. In determining what constitutes 'just and equitable' compensation, the clause acknowledges the market but dislodges it from the position of primacy which the NP had tried to secure. As a result of the strenuous lobbying by the 'Back to the Land' campaign, 'market value' is tucked in with a number of other considerations, including 'the use to which the property is being put', 'the history of its acquisition' and 'the interests of those affected.' Displaced from the property clause, the commitment to restitution gets located in the 'equality' clause of the Bill of Rights, where it is the only specified instance of corrective measures deemed consistent with the principle of equality of all before the law.⁴ The institutional framework for restitution finds itself in yet another section of the Constitution, with provision for the dual structure of a commission to process claims and a court of law to make the final adjudication. This section also addresses another controversial issue in the debate, the historical period to be covered, by determining that dispossessions dating to before June 19 1913 (the date on which the Natives Land Act came into operation) would fall outside the restitution (but not the redistribution) process.

The constitutional negotiations thus confirmed the symbolic power of the 87/13% land divide in the construction of the new South Africa but elided land reform with restitution. At the end of 1993 most observers believed this was as much as could have been achieved out of the balance

of forces prevailing at the time. Most proponents of land reform were ready to work with the new dispensation, in the expectation that a democratically elected government would make land reform a priority. There was a great willingness to believe that the trajectory from text to social reality - from Constitution to community - would be relatively direct and unobstructed. In December 1993, *AFRA News*, the newsletter of one of the most active land-rights NGOs in the property rights debate, commended 'the sensitivity displayed by negotiators in paving the way for resolving the sensitive issue of forced removals' and hoped that this would continue for 'the other issues still to be resolved around land access under a new government' (AFRA, 1993b: 5).

The struggle to define the constitutional limits to land reform did not stop in 1993 but was replayed, in a markedly different context, during the drafting of the final Constitution between 1994 and 1996. Significantly, the 1996 Constitution broadens the constitutional commitment to land reform, without tampering with the fundamentals of the 1993 property clause. It specifically includes tenure security as an entitlement and requires the state to 'foster conditions which enable citizens to gain access to land on an equitable basis.' At the same time, the state is also explicitly empowered to expropriate land 'in the public interest', which is defined to include 'the nation's commitment to land reform' (Act 108 of 1996). The new clause thus contains potentially far-reaching constitutional imperatives for a more extensive land reform than that allowed in 1993. By that stage, however, much of the political momentum around land reform had been lost. The ANC was embarked upon the neo-liberal macro-economic course it had begun to chart in the uncertain years leading to the transfer of power. Furthermore, as the following section shows, by 1996 the demands of policy implementation, rather than policy formulation, were taxing the energy of the post-apartheid government's land reform practitioners, many of whom were drawn from the cadre of activists and lawyers associated with the 'Back to the land' campaign.

Feeling the limits, 1994 – 2003

By the time of the 1994 elections, land reform was no longer 'the fundamental national demand' for the ANC. Rather it had become, in the words of the ANC's *Reconstruction and Development Programme*, 'the central and driving force of a programme of rural development':

Such a programme aims to address effectively the injustices of forced removals and the historical denial of access to land. It aims to ensure security of tenure for rural dwellers.

And in implementing the national land reform programme, and through the provision of support services, the democratic government will build the economy by generating large-scale employment, increasing rural incomes and eliminating overcrowding (ANC, 1994: 20).

These claims notwithstanding, land reform was not prioritised in terms of overall economic objectives, nor national budget and public service staffing allocations. The Ministry of Land Affairs has been placed in the social, rather than the economic, cluster of ministries and the annual share of the Department of Land Affairs (DLA) of the national budget has been consistently tiny – on average, in the region of 0,3% since 1994 (Mingo, 2002). For the ten years from 1994/95 to 2003/04 the budgetary allocation to the DLA (including the Land Claims Commission) has totalled some R7,3 billion – just over 40%, in ten years, of what the World Bank recommended should be allocated over five.⁵ To put this in perspective, DLA's ten-year total is less than half the R15,27 billion allocated to the Department of Defence in the 2001/2002 financial year alone.

Through the constitutional negotiations restitution started as land reform's flagship. Because of the work of the Land Claims Working Group, the Restitution of Land Rights Act was the first piece of 'transformation' legislation to pass the new parliament, its enactment in November 1994 greeted with loud cheers from MPs as they applauded the promise and symbolism of the moment. When the Commission on Restitution of Land Rights was appointed a few months later, it was optimistically believed that land restitution would meet its targets within ten years. Quite quickly, however, restitution lost its shine as the process became swamped with claims (many as complex as the Bhangazi claim) and the Commission, Land Claims Court and DLA struggled to overcome severe resource and management problems and sort out debilitating disputes over their respective responsibilities. By the time of the second national elections in 1999, some 63,500 claim forms were reported as lodged, out of which only 41 had been processed to finality (CRLR, 1999: 9). By then the implications of some of the decisions of 1993/4 were apparent, notably, the court-overseen institutional structure and the decision to include urban claims in the same process as rural. The four regional offices that were initially established within the Commission found themselves devoting major resources and far more attention than anticipated to intensely demanding urban restitution issues, including contentious redevelopment projects entwined with land claims in District 6 (Cape Town), Alexandra (Johannesburg), and Cato Manor (Durban).

In response to mounting concern, in 1998 Minister Hanekom appointed a Ministerial Review to 'engage with all the role-players in order to identify areas of critical intervention' (du Toit *et al*, 1998: 75). The review highlighted a number of problems, including a 'crisis of unplannability', low levels of trust between implementers, and poor integration of restitution with other programmes of government. Shortly after its publication the first Chief Land Claims Commissioner left the Commission in a highly acrimonious fall-out with both the Minister of Land Affairs and his fellow Commissioners.

From this low point, the restitution process has picked up dramatically, at least in part because of the shift to an administrative route for settling uncontested claims initiated by Minister Hanekom in response to his review. Land restitution has now regained its pre-eminence as the flagship of land reform and visible demonstration of the state's commitment to redressing the injustices of the past. By September 30 2003 a total of 42,556 claims were reported as settled (out of an adjusted estimate of nearly 80,000 claims),⁶ at a total cost to the state of R2,49 billion (CRLR, 2003c). Ceremonies marking the settlement of claims remain powerful occasions at which the narrative of redress and restoration is reaffirmed by senior government figures, both for the beneficiaries assembled before the dignitaries on the podium and for the nation as a whole, as scenes of jubilant claimants get screened to the country on national news broadcasts.

Yet despite these significant advances, the overall contribution of restitution to land redistribution is slowly being revealed as limited. Thus far, the great bulk of settled claims have been urban, and financial compensation rather than land has been the major form that restitution has taken (Hall, 2003a). Just under 800,000 hectares of land have been transferred to claimants to date (including in urban areas) (DLA 2003b). There is very little qualitative information on how restored land is being used, and by whom, but the indications are that many beneficiaries are struggling to establish themselves and there are serious problems with post-transfer support on the part of both the Commission and local government. The impact of restitution on urban redevelopment has also been minimal, apart from a few high-profile and locally significant cases, including District 6 in Cape Town and South End/Fairview in Port Elizabeth (Walker, 2003c). Yet while analysts warn that the task is formidable (diplomatic) or impossible (blunt), President Mbeki has confirmed in his 2003 'State of the Nation' address that the government still intends completing the restitution programme in 2005 (DLA, 2003b: 8).

The initial targets for land redistribution were even more ambitious than those for restitution,

and the initial results as disappointing. Through the *Reconstruction and Development Programme* the ANC committed itself to redistributing 30% of agricultural land within five years (ANC, 1994: 22), an undertaking which was subsequently shunted to the margins within the Hanekom era as the enormity of the undertaking became apparent, but revived in modified form by Hanekom's successor, Thoko Didiza. In 2000 she set a target of redistributing 15% of farmland in five years (Ministry for Agriculture and Land Affairs, 2000: 13), subsequently recast to redistributing 30% of farmland in 15 years. To date only a fraction of the total has been realized – 1,56 million hectares (1,9%) as of 30 June 2003, to a total of 137,521 households (Hall, 2003b). The total covers the range of redistribution types that have been developed since 1994, including group settlements, share equity schemes, municipal commonages and the more recent individually targeted LRAD (land redistribution for agricultural development) sub-programme. One third (529 million hectares) is located in the sparsely populated and arid Northern Cape. Combining the restitution and redistribution totals means that between 1994 and mid 2003 the government's land reform programme has transferred some 2,36 million hectares or 2,9% of commercial farm land to black beneficiaries.

Pro-market critics of the state's performance have charged that the private sector has been a more efficient redistributor of land from white to black – according to Lyne and Darroch (2003: 79), out of a total of 994 transactions to 'disadvantaged' owners in KwaZulu Natal between 1997 and 2001, only 89, involving 45,121 hectares, were government-assisted. In contrast a total of 471 transfers involving 60,234 hectares took place by means of private mortgage loans and cash purchases (with a further 434 transfers involving non-market mechanisms, primarily bequests). Land activists, on the other hand, have blamed the government's failure to meet its redistribution targets on its deference to the market. Thus, according to Thwala:

The state has not fulfilled ... its obligations to landless people, and this failure has resulted in an escalation of the land crisis created by colonialism and apartheid. The fundamental choices made by the new regime serve to undermine the ability of the land reform programme to create conditions for ... agrarian transition – in particular, the property rights clause in the constitution and the opting for the market as the mechanism for redistribution (nd: 20).

They have also criticized the shift from the explicitly pro-poor policy focus of the Hanekom era to the emphasis since 1999 on using land redistribution grants to promote the emergence of a new classe of market-oriented farmers.

More positively, a small number of research projects have highlighted the livelihood gains that individual households have been able to secure, as well as the less tangible benefits that can flow to people through secure, autonomous rights in land, including feelings of belonging and affirmation of identity (AFRA, 2003; Walker 2002). Most observers, however, are deeply concerned about the slow pace of land reform and the uncertain benefits that have accrued to beneficiaries and to the nation as a whole. For many the ‘failure to deliver’ constitutes the chief crisis of land reform.

However, applying the distinction between the general and actual domains of land reform to the analysis suggests that the criteria by which success is being judged are themselves very limited and may even be counter-productive. The most common indicators of progress both within government and without are the total numbers of hectares transferred and people who have benefited – criteria which flow from the national discourse about land reform and transformation. This puts pressure on departmental officials at the project level to speed up transfer in the interests not of local but of (cumulatively) national results; this is often to the detriment of careful facilitation of the pre-transfer process and the establishment of strong local institutions that are capable not simply of holding title deeds but of managing ownership of their land. Numerous reports point to serious concerns around the lack of post-transfer support in land reform projects as well as the fragility of the new ‘common property’ institutions that have been developed under land reform (see, for instance, Human Sciences Research Council, 2003; Walker, 2003a; LEAP, 2002); these concerns underscore the need for sustained commitment by government departments to actual land reform projects over time. Rushed transfer processes can have particularly negative consequence for women, who are unlikely to be represented in community leadership structures or to play an active part in the formal decision-making process (Walker, 2003a).

Critics of the DLA’s slow performance on both the left and the right have consistently underestimated the ‘mammoth’ task facing the department, ‘to meet the very high expectations of rapid land reform among the newly enfranchised majority, to draft and guide through an unfamiliar Parliamentary process the legislation to achieve this, and to develop the institutional structures and operating systems to support its work’ (Walker, 2003a: 118-9). Actual land reform, on the ground land reform, cannot be squeezed into tight, predetermined project cycle boxes, in which time frames are dictated by annual budget cycles or national political

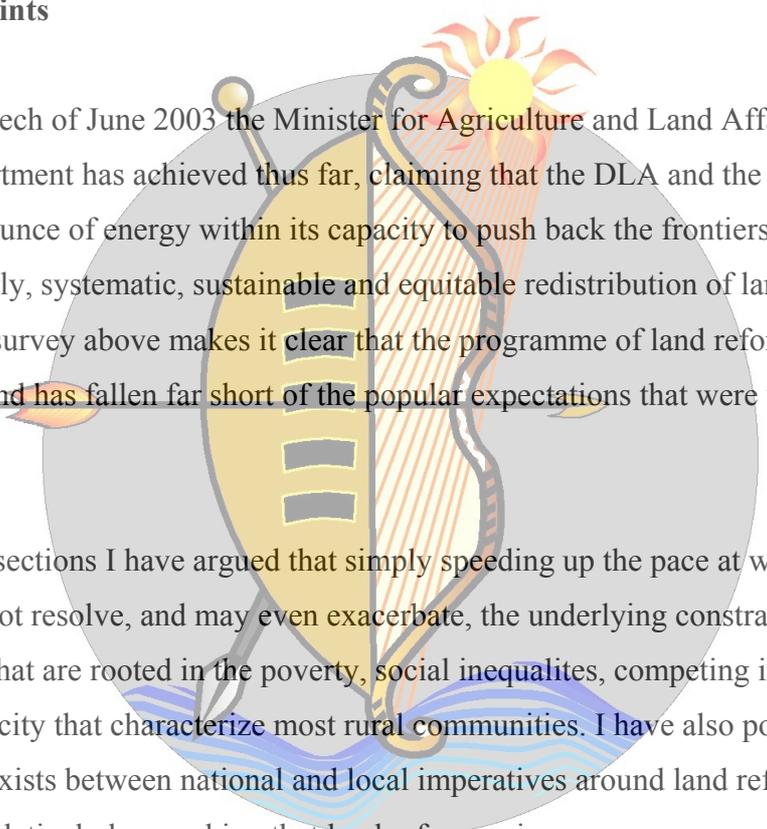
imperatives. Land reform linked to serious development will almost invariably be slow rather than fast.

The third component of land reform, that of promoting tenure security, has been the most neglected of the three-pronged strategy Hanekom outlined in 1994. Legislation was passed in 1996 and 1997 to strengthen the land rights of farm workers and farm dwellers and to outlaw arbitrary evictions. However, various attempts to develop policy to address the incoherent tenure and land administration situation on state-owned land in the former bantustans, now described as the communal areas, have continued to founder amidst ongoing political acrimony and technical disarray. Currently the latest in a long line of controversial attempts to draft tenure legislation for communal lands has been widely condemned by a coalition of civil society organizations for being undemocratic, unimplementable, and possibly unconstitutional (Submission). Version 13 of the Communal Land Rights Bill proposes divesting the state of ownership of the land vested in it by means of the 1913 and 1936 land acts; it attempts to finesse the gap between tradition and democracy by strengthening the powers of traditional authorities to manage this land while transferring nominal ownership to 'the people'. Since 1994 a fierce battle has raged within the ANC caucus over the power of traditional leaders (see Walker, 1995); it now appears that nearly ten years of prevarication and 'playing wishy-washy with the chiefs' (in the memorable words of one gender activist I interviewed), have culminated in a decision by the state to shed the burden of responsibility for these marginal areas and, by default or design, concede ground to the traditionalists.

In part the repeated failure to define an effective programme of tenure reform since 1994 reflects the complexity of the political and social relationships around land in the communal areas. Here the superficial ideological unity surrounding 'the land question' clearly falls apart. There is no national consensus on where formal ownership of this land should reside – the state, traditional leaders, 'communities', families, individuals, men or women. Advancing the rights of women within customary tenure systems that are strongly patriarchal, without undermining the social networks on which these systems rely, is not a simple challenge. Nor is it easy to strike the balance, called for by the Constitution, between respect for local norms and customs and extending democracy to local government institutions. The possibility of destructive local conflicts arising in the process of community definition, boundary demarcation and land allocation is always soberingly real.

However, the failure of tenure reform to date is also indicative of both the government's - and the public's - preoccupation with redistributive land reform and the persistent neglect of the communal areas in national economic policy. The former bantustans remain essentially welfare, not economic, zones. What this means in practice is that those places where the greatest concentration of rural people and fully 35% of the total population of South Africa live, where poverty is at its most severe, have not yet seen the benefits of land reform as a national programme of government, notwithstanding the rhetoric about the role of land reform in rural development.

Current constraints



In her budget speech of June 2003 the Minister for Agriculture and Land Affairs asserted pride in what her department has achieved thus far, claiming that the DLA and the Commission had 'amassed every ounce of energy within its capacity to push back the frontiers of poverty through the orderly, systematic, sustainable and equitable redistribution of land' (DLA, 2003: 4). Yet the brief survey above makes it clear that the programme of land reform is struggling to meet its targets and has fallen far short of the popular expectations that were vested in it in the early 1990s.

In the preceding sections I have argued that simply speeding up the pace at which land is transferred will not resolve, and may even exacerbate, the underlying constraints on sustainable implementation that are rooted in the poverty, social inequalities, competing interests, and weak institutional capacity that characterize most rural communities. I have also pointed to the disjuncture that exists between national and local imperatives around land reform, and highlighted the relatively low ranking that land reform enjoys as a programme of government. My purpose in this section is to identify certain additional constraints on the transformative potential of land redistribution, which exist beyond the realm of political choices and political will. My concern is that many criticisms of the perceived failures or weaknesses of the past nine years tend not to question the centrality to fundamental social and economic transformation of land redistribution itself – from this perspective, the problems lie not with any inherent limitations on redistribution *per se*, but with the limitations of particular policies and practices. Attempting to locate the debate on land reform in this much wider context is a huge undertaking; here all I do is identify four inter-related issues that I think require far more rigorous analysis in relation to what land redistribution can and cannot be expected to achieve.

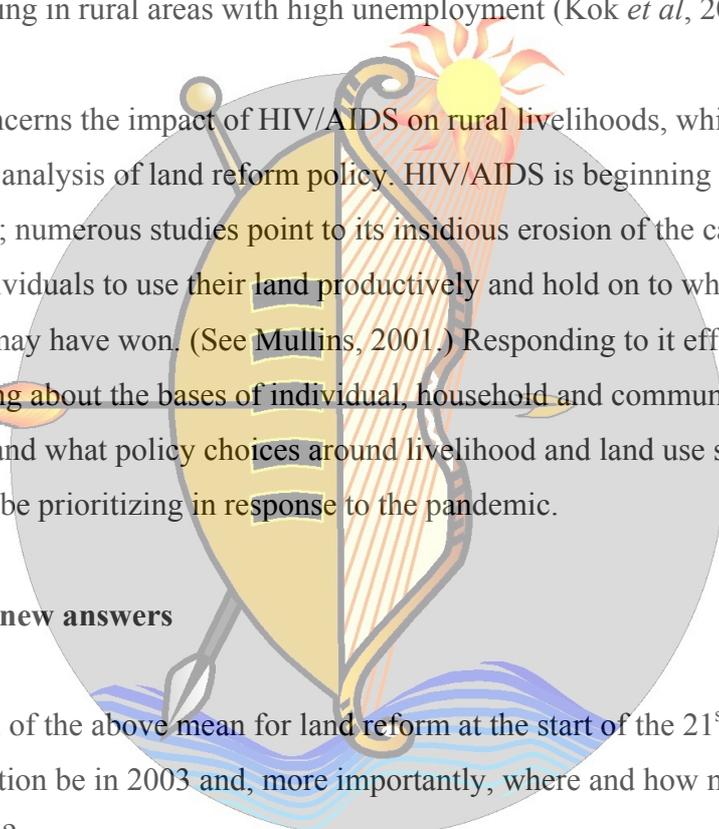
All of them set non-programmatic limits to its possibilities.

The first of these concerns the substantial demographic changes that have taken place in the country over the past century, involving both significant population growth and a shift from rural to urban areas which apartheid was able to inhibit but not, ultimately, to deflect. The population of South Africa grew nine-fold during the twentieth century, from a little over 5 million in 1904 (Beinart, 1994: 261) to approximately 45 million in 2001 (Statistics South Africa). Today well over half the population – 58% - is classified as urban and arguably, it is in the urban and peri-urban areas (including the displaced closer settlements and townships created under apartheid) that the biggest challenges to land reform and redistribution more broadly lie. This certainly is suggested by the tense clashes that have taken place between government and informal land claimants over peri-urban land in Gauteng in recent years, such as the 2001 land invasion at Bredell, which saw local political brokers selling sites for shacks illegally to 7,000 people, at R25 per site (Hart, 2002: 305). Despite the complex linkages that operate between urban and rural areas, which are still poorly understood (Kok *et al*, 2003), the demographic balance has tilted decisively towards urban rather than rural patterns of settlement and livelihoods.

A second, composite point is that South Africa is a semi-arid country that is not well-endowed agriculturally. New farmers are, furthermore, entering agriculture at a very difficult time economically, in terms of both global competition and national economic policy, which has seen a major process of deregulation of agricultural production and markets over the past decade. Only 12% of the country's land is classified as arable, most of that located along the densely settled eastern seaboard, including the former Transkei (Mashile, 1988: 61). The fact that only the eastern and southern coastlines are 'moderately well watered' (Cowling, 1991: 12) sets ecological constraints on how much land can be redistributed and where, if sustainability and economic development are serious objectives. Northern Cape, the largest province by area (30% of the total, 95% of that privately owned, DLA, nd), also the most sparsely populated (just over two people per km²), might seem a prime location for a major resettlement programme for black farmers – except for the fact that much of it is, officially, desert.

A third constraint on redistribution as the primary focus of land reform is the reluctance that many poor rural people are likely to display towards moving far from their home locality to acquire agricultural land. This is particularly relevant for thinking about what land reform

should mean in the communal areas, in terms of de-densification and agricultural strategies. While commentators have noted the considerable potential for the state to acquire privately-owned land for redistribution on the borders of the former bantustans, this is unlikely to provide much relief to people living in the center of these territories. This is certainly not to suggest that resettlement opportunities will be without attraction here – the history of migration in South Africa shows both considerable mobility from these areas, particularly by economic migrants, and resistance to leaving important social networks and resources as well as ancestral land. A recent study of census data on internal migration suggests that those who are least likely to migrate are the poorest and most vulnerable members of households, particularly female-headed, who are living in rural areas with high unemployment (Kok *et al*, 2003).



My fourth point concerns the impact of HIV/AIDS on rural livelihoods, which urgently needs to be factored into the analysis of land reform policy. HIV/AIDS is beginning to cut a swathe through the country; numerous studies point to its insidious erosion of the capacity of affected households and individuals to use their land productively and hold on to whatever hard-earned rights in land they may have won. (See Mullins, 2001.) Responding to it effectively requires new ways of thinking about the bases of individual, household and community resilience to such social shocks and what policy choices around livelihood and land use strategies the government should be prioritizing in response to the pandemic.

New questions for new answers

What, then, does all of the above mean for land reform at the start of the 21st century? What might the land question be in 2003 and, more importantly, where and how might we develop appropriate answers?

Land reform, I have argued, is overloaded with the claims of history and the twinned but incongruent imperatives of redress for the past and development for the future that that has bequeathed us. It is also hobbled by the constraints of the present, including not only the relative marginality of the rural areas politically and economically, but also the indifferent - uncooperative - natural environment in which it is to work its remedy. Popular expectations have been shaped by a ‘master narrative’ of quintessentially rural dispossession and restoration that, while not, broadly, untrue, is no longer directly relevant to today’s developmental challenges. It focuses too narrowly on the so-called ‘white’ countryside, underplays the

importance of urban land reform and the former reserves, and under-estimates the contemporary challenges to agriculture.

It is not that land issues and land reform are not important for the millions who do look to the land to provide or supplement a living, as the proponents of the multiple livelihoods perspective have demonstrated (Shackleton *et al*, 2000). It is that successful programmes of restitution, redistribution and enhanced tenure security will, at best, provide only some of the preconditions for the widespread emancipation from oppression and poverty which Hanekom invoked in 1994 - and that, at their most efficient, they will do so more slowly than the politicians have promised thus far. Land reform must be harnessed to a differently constructed notion of transformation, one which does not fetishise the racial profile of commercial agriculture as the only or most critical marker of success, nor exaggerate the importance of the commons to do much more than sustain people in poverty.

I am certainly not arguing that the state's failure to meet its targets, along with its lack of capacity to implement and manage a serious programme of land reform, are not matters of concern. Nor am I arguing against the de-racialising of land ownership in the countryside. Rather, my point is that there are inherent, programmatic limits to what redistribution can achieve. Criticisms of the state's programme for failing to 'deliver' commercial farm land at sufficient scale and speed have themselves failed to engage seriously with these limits and to unpack the relationship between land reform, rural development and economic growth today. Along with the 'impasse' in delivery there is thus an 'impasse' in expectations, which is rooted, at least in part, in the way in which the land question has been constructed and understood in South African history.

If this is correct, it suggests that what is needed is a new understanding of the issues – a fresh reading of history, a revised narrative, that can support a more robust consensus around land policy, one which could, in turn, underpin a more modestly framed, perhaps, but ultimately more grounded set of policies and programmes. The Freedom Charter might still provide a historically legitimate and therefore useful starting point:

South Africa belongs to all who live in it, black and white ...

The national wealth of our country, the heritage of all South Africans, shall be restored to the people ...

Restriction of land ownership on a racial basis shall be ended, and all the land redivided

among those who work it ...
There shall be jobs ...

But beyond the poetic, rallying phrases, political leadership and solid popular education is required to drive home the understanding that effective land reform cannot be achieved quickly. This involves serious engagement with potential beneficiaries waiting impatiently in land reform queues, as well as with farmers affected by land claims, and with organized agriculture. It requires an open engagement with critics on the left as well as the right, and a willingness to explore alternatives. At the same time, the state needs to expand the capacity of the DLA and Commission and use the full range of mechanisms already provided for in the Constitution to acquire suitable land for settlement and for agricultural development, at ‘just and equitable’ prices. Land issues in the communal areas have to become the focus of much more sustained attention, along with urban and especially peri-urban land issues. Above all, we need to recognize that South Africa is not the agrarian country that it was ninety years ago when the Natives Land Act was passed. The answer to the land question must today be sought also in jobs, education, urban housing and a dramatic escalation in the provision of public health services to combat the scourge of AIDS.

How welcome a revised and modest (albeit still emancipatory) account of the land question might be in today’s fractious political climate is not clear. Yet the tenth anniversary of the institutionalisation of land reform as a key component of South Africa’s transition to democracy seems as appropriate a time as any at which to raise these ideas.

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² Harold Wolpe lecture series, University of Natal, Durban, 2003.

³ The account that follows draws on my work as Land Claims Commissioner between 1995 and 2000, involved in the settlement of the claim and, more recently, as a researcher. See Walker, 2003b.

⁴ Sub-sections of the equality clause protect measures designed to advance 'persons or groups or categories of persons disadvantaged by unfair discrimination' from constitutional challenge; see Act 200, 1993, clause 8.

⁵ This figure has been compiled from DLA Annual Reports, 1996 – 1999 and the Vote 28, 2001 and represents the budgeted allocation not the actual annual expenditure. The figures for each year are as follows: 1994/95 R92,000; 1995/96 R553,835; 1996/97 R729,780; 1997/98 R688068; 1998/99 R793,664; 1999/00 R752,632; 2000/01 R894,523; 2001/02 R851,487; 2002/03 R932,480; 2003/04 R1,016,826. Note most recent increase to restitution.

⁶ There are many problems associated with classifying, counting and monitoring the number of claims that have been lodged, as well as the ways in which progress towards settlement (agreement about the form of restitution) and finalisation (the completion of the process) are determined. These problems are compounded by the absence of an effective claims information management system. By way of example, the Commission reported a total of 85,005 households that had benefited from claims settlements by December 2002, which is more than the number given by the Minister in April 2003, by which time an additional 200 claims had been settled. For a fuller discussion see Walker (2003b) and Hall (2003a).