

# **LAND REFORM AND SUSTAINABLE DEVELOPMENT – A MARRIAGE OF NECESSITY**

Juanita M Pienaar  
*BJuris LLB LLM LLD*  
*Professor, University of Stellenbosch*

## **SUMMARY**

In order for land reform to be successful in the agricultural arena, the end-result must promote sustainable development. The question is whether legislation and policy initiatives have been conducive in furthering the partnership between land reform and sustainable development. Although the link between the two seems apparent, after a brief analysis of existing land reform legislation it is clear that legislation generally does not reflect this. Many actors have an impact on the harmonization of land reform and sustainable development, *inter alia* (a) problems resulting from the former racially-based land control approach and (b) geographical and climatic factors. The problems experienced in the rural areas in especially the former national states and self-governing territories are discussed in more detail. In order to place the current situation in perspective, recent developments that impact on land reform and development are then discussed, namely the Land Redistribution for Agricultural Development Plan and the Strategic Plan for SA Agriculture. In light of these developments various shortcomings are further identified that still hamper the closer working partnership between land reform and sustainable development. The conclusion is reached that the mere transfer of land is no guarantee for a successful land reform programme. What is needed, is a balanced approach towards addressing the demand for land on the one hand and maintaining agricultural production on the other.

## **1 INTRODUCTION**

Land reform and sustainable development are like the proverbial horse and carriage that go together like love and marriage. However, for this marriage to be happy and successful, the two partners need to work together: *in tandem*, so-to-speak. This is not, however, a marriage of convenience – it is a marriage of necessity. Unfortunately, like in many marriages, there is a continual interplay between idealism on the one hand and realism on the other.

---

Land reform is not *only* about redressing past injustices and inequalities, although it certainly has a crucial role to play in that domain.<sup>1</sup> It is also about providing sustainable livelihoods and addressing poverty.<sup>2</sup> As such, land reform has the profound potential to restructure the agrarian economy of the country as a whole and to change the patterns of inequality accordingly. Conversely, badly conceptualized or implemented land reform could have an extremely detrimental outcome for agriculture in general and the provision of food and sustenance in particular. Thus, in order for land reform to transform lives on a daily basis, the provision of land itself is not enough. Land use has to be viable and sustainable to have lasting effects.

Although not easy to define due to the many dimensions thereof and approaches thereto,<sup>3</sup> sustainable development entails the ultimate use of resources – be they natural, social or economic – to the benefit of the community in general but without the depletion of its resources basis.<sup>4</sup> With regard to development as such, it is nowadays commonly held that development is not a mere revolutionary or natural process – it has to be managed in order to effect change.<sup>5</sup> Law in itself is, however, not capable of bringing about sustainable development, but it is a valuable tool to be used in managing the process.

The aim of this contribution is to determine whether legislation, policy initiatives and practice have in fact been conducive in furthering the partnership between land reform on the one hand and sustainable development in the other. In order to determine this, land reform will first be discussed briefly with reference to the three inter-connected programmes and the main aim of each programme, after which an analysis of current legislation implementing land reform projects will follow with an emphasis on sustainable development. Although land reform and sustainable development are both broad concepts, the focus will be on land reform as a tool in revitalising agriculture. Therefore section four of the contribution will deal with challenges South Africa is now facing in this regard. Once the

---

<sup>1</sup> See Bennett “African Land – A History of Dispossession” in Zimmermann and Visser (eds) *Southern Cross-Civil Law and Common Law in SA* (1996) 65; Haines and Cross *Towards Freehold? Options for Land and Development in SA’s Black Rural Areas* (1988) 73-92; Davenport *South Africa: A Modern History* 4ed (1991) 43-56; Jones “Land for the Landless: Conflicting Images of Rural and Urban in SA’s Land Reform Programme” 2001 *Journal of Contemporary African Studies* 93-109; Badenhorst, Pienaar and Mostert *Silberberg & Schoeman’s The Law of Property* (2003) 511-527; and Carey-Miller and Pope *Land Title in South Africa* (2000) ch 7.

<sup>2</sup> See the *White Paper on Land Reform* WPB-91. In reality it goes much further – it is also linked to providing a sense of security, history and identity.

<sup>3</sup> The traditional capitalist development model emphasizes economic growth – see Abraham and Abraham *Women, Development and Change* (1988) 50. A more recent theme in development theory is the promotion of gender issues – see further Rao, Anderson and Overholt *Gender Analysis in Development Planning* (1991).

<sup>4</sup> World Commission on Environment and Development *Our Common Future* (1987) 107.

<sup>5</sup> See, for more detail, Scheepers *A Practical Guide to Law and Development* (2000) 14.

---

current challenges have been dealt with, the focus shifts to recent developments aimed at addressing some of the identified shortcomings. The conclusion will deal with possible recommendations and issues that have to be dealt with in future.

## 2 AIMS AND EXPOSITION OF LAND REFORM

The Department of Land Affairs was officially established in 1994 with the mission to create an equitable and fair land dispensation in South Africa, as well as to secure and promote effective land use as a resource within the context of sustainable (rural) development.<sup>6</sup> The following aims were identified:

- To restore land rights
- To provide appropriate land policy
- To formulate a legislative framework and mechanisms for equitable access to land and to
- Promote security of tenure.

Based on the constitutional property clause,<sup>7</sup> the Department has introduced three branches of land reform:

- Redistribution by providing more access to land;<sup>8</sup>
- Tenure reform by providing secure tenure to those who do not have it;<sup>9</sup> and
- Restitution to those who lost land or land rights due to racially discriminatory legislation and practice.<sup>10</sup>

Since the focus of the article is the revitalization of agriculture and its link with land reform and sustainability, the redistribution programme will be

---

<sup>6</sup> *White Paper on SA Land Policy* (1997) v.

<sup>7</sup> S 25 of the Constitution of the Republic of South Africa 108 of 1996.

<sup>8</sup> S 25(5). See, for more detail, Badenhorst *et al* 489-499; and Carey-Miller and Pope 398-455. The latest statistics indicate that 1,8m hectares of land have been redistributed since 1994 and that about 134,478 households have benefited.

<sup>9</sup> S 25(6). See, for more detail, Badenhorst *et al* 499-511; and Carey-Miller and Pope 456-554. The latest development in this regard is the promulgation of the Communal Land Rights Act on 13 February 2004. See, for more detail, Mostert and Pienaar "Communal Land Title: An Assessment of Legislative Intervention for Tenure Security and Access to Land" in Cooke (ed) *Modern Studies in Property Law* (2005) forthcoming.

<sup>10</sup> S 25(7). See also Badenhorst *et al* 511-527; and Carey-Miller and Pope 313-398.

A total of 68 878 claims were lodged on or before the deadline of 31 December 1998. The latest statistics (February 2004) indicate that 54% of the land claims have been finalized and that 32 967 claims are still outstanding. Only about 5 933 of the more than 45 000 rural claims have been settled.

---

discussed in more detail, with mere reference to the other two programmes, where necessary.

The specific aim of the redistribution programme is to redistribute 30% of the available farm land to (mainly) black farmers by 2015.<sup>11</sup> However, to achieve this is in principle a very expensive and ambitious target.<sup>12</sup> As it happens, a lot has been reported in the media on land reform not coming up to speed, not delivering as promised and generally being slow and cumbersome.<sup>13</sup> The first few years were undeniably slow in implementing projects, spending the full amount allocated to land reform, training staff and setting up the necessary infrastructure. The delivery mechanisms were furthermore intricate and the existing as well as the proposed tenure arrangements were complex. The momentum gained in land reform in general was further hampered when a new Minister of Land Affairs and Agriculture was appointed in 1999.

Despite these delays and the reorientation of certain programmes, the Department of Land Affairs has managed to spend 98% of the budget allocated to land reform over the past few years. Despite annual increases in the budget, the combined budgets for redistribution and restitution have added up to only 0,4% of the total budget. In the 2004/5 budget R1,9 billion more is provided for land reform and assistance to new farmers. R474 million is allocated to redistribution and R933 million to the restitution programme. An amount of R750 million, to be allocated to provincial agricultural departments, has been made available to facilitate the entry of emerging black farmers into the agricultural economy.<sup>14</sup>

The restitution process also impacts on rural land patterns.<sup>15</sup> Currently about 3,6 million people are affected by rural claims. Although the Committee on the Restitution of Land Rights has been focusing on rural land claims, many rural claims are still outstanding. Despite the Minister having identified 2005 as the deadline for the finalization of restitution claims, it is

---

<sup>11</sup> The Department of Land Affairs has confirmed that the targeted 30% excludes the areas comprising the former national states and self-governing territories.

<sup>12</sup> The average South African commercial farm is worth R1,25m which could thus result in expenditure of more than R25bn over the whole period.

<sup>13</sup> See, eg, Cilliers "Grondhervorming: Kan Staat dit Laat Slaag?" 2002-07-26 *Landbouweekblad* 62-63. In this article the author estimates that, with the tempo land reform has been dealt with up to now, the land reform process is expected to take up to 43 years and would cost approximately R43bn. See also Mnyamana "The Land is Still Not Bearing Fruit" 2003-10-19 *City Press* 21; Hofstatter "Land Reform and Shaky Ground" 2003-12-30 *This Day* 4; Anon "South Africa: A Lack of Support for Vital Land Reform" 2004-02-05 *Business Times* 8; and Stoddard and Osodo "Hunger for Land Grows" 2004-01-14 *This Day* 11.

<sup>14</sup> Groenewald "Land Won't Belong to All by 2005" 2004-02-20 *Mail & Guardian Online*.

<sup>15</sup> See, for more detail, Badenhorst *et al* 511-528. Rural claims are especially complex due to conflicting claims. As long as conflicting claims have not been solved, the full implementation of the redistribution programme is hampered.

---

doubtful that it will be reached. Not only are rural claims complex, but they are also more expensive to settle than urban claims.<sup>16</sup> What has become clear, however, is that claim-settling as such is not enough to alleviate poverty and improve people's lives.<sup>17</sup> Post-settlement problems need urgent further attention from the Department.<sup>18</sup>

### **3 BRIEF ANALYSIS OF CURRENT LAND REFORM LEGISLATION IN VIEW OF SUSTAINABLE DEVELOPMENT**

This section will not deal with all land reform-related legislation in detail, nor will it discuss all the development-oriented legislation that is currently relevant.<sup>19</sup> The aim of this section is to briefly determine whether our current land reform legislation specifically provides for sustainable development as such or whether the latter is dependent on policy documents or other strategic plans of government.

Various legislative measures are employed in realising land reform in practice. The following acts are frequently used, for example, the Provision of Land and Assistance Act 126 of 1993 which provides for the designation of suitable land and the settlement of communities; the Land Reform (Labour Tenants) Act 3 of 1996 which is especially aimed at protecting labour tenants from eviction and providing for the acquisition of land rights, the Extension of Security of Tenure Act 62 of 1997 (ESTA) which is in practice aimed at farm workers and extending their security of tenure and the Restitution of Land Rights Act 22 of 1994 which regulates the restitution process. The latest addition to the existing plethora of land reform legislation, is the Communal Land Rights Act of 2004. This Act is

---

<sup>16</sup> Cilliers 2002-07-26 *Landbouweekblad* 62.

<sup>17</sup> This point may be illustrated with reference to the Elandskloof experience. Although the claim was already settled 6 years ago, hardly any development has taken place. This is mainly due to (a) in-fighting in the community and (b) lack of skills and knowledge. The community consisting of 300 persons is unable to decide on priorities on the one hand and is struggling to draft a development plan on the other. Because the community is a private land owner, the local authority refuses to be involved in the initial development processes. Problems like these can be overcome if the Department of Land Affairs develops a monitoring system after restitution claims have been settled.

<sup>18</sup> The land reform projects that have been successful, generally share the following characteristics:

- the beneficiaries form a coherent group who participate actively and enthusiastically in the specific project (see the comment in this regard in fn 17 *supra*);
- it is not so much the size of the project that matters, but the ability to provide real, tangible benefits for the beneficiaries that makes the difference; and
- projects have functioned *in lieu* of partnerships being formed – either between former land owners and local government, the community and non-governmental organizations.

<sup>19</sup> See, for more detail with regard to development legislation, Scheepers ch 4. See also Badenhorst *et al* ch 22 in general; and Cary-Miller and Pope chs 7-9.

---

essentially applicable to areas falling within the jurisdictions of the former national states and self-governing territories in order to address the issue of communal land title. This Act makes provision for moving away from the old order rights towards new order rights and provides for the registration of these rights in the names of either the communities or individual community members.<sup>20</sup>

Although it is true that general land reform measures are not *directly* aimed at sustainable development, the general absence of development-related provisions is rather disconcerting. With the exception of the Provision of Land and Assistance Act, the bulk of these legislative measures hardly make any reference to the promotion of sustainable development – although it is clear that land reform as such and sustainable development go hand-in-hand.

The Provision of Land and Assistance Act provides for the designation of state land, other land acquired under the Act and private land made available by the owner thereof, for any of the following purposes: for small-scale farming, residential, public, community or business purposes.<sup>21</sup> The notice indicating the designation of land<sup>22</sup> can be conditional. It is especially here that sustainable development is brought into the picture: typically such notice limits the number of livestock, provides for the compulsory submission of a development plan and that the provisions of environmental legislation and resource management have to be adhered to.<sup>23</sup> Section 14 furthermore provides for the issue of regulations by the Minister dealing with, *inter alia*, the size of land for subdivision purposes, the supply of services to persons to be settled on the land and the number of persons to inhabit a specific portion of land. Thus, sustainable development considerations are provided for, albeit more *indirectly* than one would have expected.

In the Land Reform (Labour Tenant) Act references to development are equally scarce. Section 8 provides that a land owner can apply for the relocation of labour tenants when he or she wants to develop the land for public benefit or for other agricultural purposes. Section 26 provides that application can be lodged for grants or subsidies to be used for the development of land occupied or to be occupied by the labour tenant.

The references to development in the Restitution Act are mainly aimed at prohibiting development after publication of the restitution notice and before finalisation of the claim, except if the land owner has the necessary permission to proceed with intended development. Section 42C provides for

---

<sup>20</sup> See, for more detail, Mostert and Pienaar in Cooke (ed) forthcoming.

<sup>21</sup> See s 2 of the Act.

<sup>22</sup> S 2(3)(a).

<sup>23</sup> *Eg*, the Conservation of Agricultural Resources Act 43 of 1983 and the National Water Act 36 of 1998.

---

financial aid. Grants and subsidies may also be acquired by successful claimants to develop land, which grants may also be conditional. It is thus possible that environmental or sustainable developmental factors have to be considered if the conditions are so formulated.

The Communal Property Associations Act 128 of 1996, one of the key redistribution measures, has no specific reference to development as such. The Extension of Security of Tenure Act 62 of 1997<sup>24</sup> does make provision for development in that it is directly linked to long-term security of tenure. The whole of Chapter II deals with the measures to facilitate long-term security of tenure for occupiers. Either on-site or off-site developments can take place with the assistance of the Minister of Land Affairs.<sup>25</sup> Priority will be given to applications which accommodate the interests of occupiers *and* land owners and which are cost-effective. If the development is not on the farm, satisfactory reasons have to be provided why it is not feasible. Again there is no specific reference to *sustainable development*. However, the granting of funding can be subject to conditions. Usually sustainable development and preservation of natural resources are incorporated in the said conditions.

In view of the main aims of the Communal Land Rights Act one would also have expected more provisions relating to development. There are mainly three provisions dealing with this matter: (a) section 18(4) provides that the Minister has to take into account the integrated development plan of the relevant municipality when making the determinations in relation to the fate of old-order rights; (b) section 24(3)(f) lists one of the functions of the land administration committee to liaise with the relevant municipality concerning the planning and development of the communal land; and (c) section 28(1)(a) provides that the land board advise the minister and assist the community regarding matters concerning sustainable land ownership and use. Although not all-encompassing, these provisions seem to be more to the point than those referred to above.

However, the overall impression is that land reform legislation as such, is *not specifically development-oriented*, but does have useful provisions that can be employed more fruitfully. In the present formulation, sustainable development is usually provided for by way of conditional granting of financial aid or the publication of notices.

Something that must not be lost sight of, is the role that the Development Facilitation Act 67 of 1994 has to play. It forms the paradigm within which *all* development of land – rural as well as urban – has to take place. All

---

<sup>24</sup> See, for more detail, Pienaar “Farm Workers: Security of Tenure in Terms of Recent Legislation” 1998 *SAPR/PL* 423-437; Badenhorst *et al* 500-508; and Carey Miller and Pope 492-515.

<sup>25</sup> S 4(1).

development has to be in accordance with the development principles set out in the Schedule to the Act.<sup>26</sup> With regard to sustainable development, the relevant principles are the following: principle (c)(ii) provides that policy, administrative practice and laws (hereafter PAL) should promote integrated land development in rural and urban areas in support of each other; (c)(iv) that PAL should optimize the use of existing resources including resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities; (c)(vii) PAL should contribute to the correction of historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs; and (c)(viii) PAL should encourage environmentally sustainable land development practices and processes. Principle (h) is in its whole directly aimed at promoting sustainable development.<sup>27</sup>

Chapter V of the Development Facilitation Act sets out the land use procedure that is mainly aimed at urban development whereas Chapter VI of the Act deals with rural development in that small-scale farming is specifically provided for.<sup>28</sup> Unfortunately the implementation of the Development Facilitation Act has not been as successful as was hoped. Although the idea was that the Act would be temporary in that provinces would formulate their own planning and development legislation, based on the principles set out in the Act, many provinces have not managed to formulate own legislation. Since the Development Facilitation Act also functions parallel to existing planning and development measures, many developers still opt for the well-known, albeit more cumbersome, application procedures.<sup>29</sup> The impact of the Act and its tribunal systems was thus not as effective as was the initial idea. In view of this, a new land use planning and management framework is envisaged for the country.<sup>30</sup> The main thrust of the newly proposed planning paradigm is that the existing plethora of planning measures and policy documents are to be substituted by a *single* land use management system with *one* uniform procedure for all

<sup>26</sup> See, for more detail, Pienaar and Balatseng "Post-1994 Rural Development Measures: Current Issues" 2001 *Seminar Report: Constitution and the Law IV: Developments in the Contemporary Constitutional State* 127-140; and Badenhorst *et al* 533-535.

<sup>27</sup> "PAL should promote sustainable development at the required scale in that they should –

- (i) promote land development which is within fiscal, institutional and administrative means of the Republic;
- (ii) promote the establishment of viable communities;
- (iii) promote sustained protection of the environment;
- (iv) meet the basic needs of all citizens in an affordable way; and
- (v) ensure the safe utilization of land by taking into consideration factors such as geological formations and hazardous undermined areas."

<sup>28</sup> See also Carey Miller and Pope 428-430; and Scheepers 62-64.

<sup>29</sup> See the analysis of the Act by Pienaar and Balatseng 2001 *Seminar Report* 127-140.

<sup>30</sup> The Draft White Paper on Spatial Planning and Land Use Planning and a Draft Land Use Management Bill were published in 2001.



---

applications. Inevitably this will also lead to the repeal of the Development Facilitation Act.

## **4 MARRIAGE ON THE ROCKS? CURRENT CHALLENGES**

This section deals with the many challenges South Africa is currently facing in the process of harmonising land reform and sustainable development. Broadly the challenges can be placed into two main categories: (a) those resulting from the racially-based land control management system that *inter alia* marginalised black land holding and gave rise to the establishment of the former national states and self-governing territories and the many problems linked to that effort on the one hand; and (b) geographical and climatic factors restricting agricultural opportunities and limiting the availability of suitable land for agriculture, on the other. Reference will, however, also be made to the impact of gender disparity in land reform.

### **4.1 Challenges that can be linked to the former racially-based land control system**

#### *4.1.1 Rural areas and former national states and self-governing territories*

Currently 71% of South Africa's poor reside in the rural areas.<sup>31</sup> With regard to agriculture, rural populations face a situation of highly distorted, small or missing markets and the situation is not likely to change in the very near future. Existing rights to water and irrigation are as skewed as the patterns of access to land – also a result of the former racially-based land control system. Already at this stage it is clear that the mere transfer of assets or property would not necessarily translate into an improved level of living. Additional land will also not automatically result in higher production levels or agricultural income. Specific targeted policy interventions dealing with especially market opportunities may be necessary to address this problem.<sup>32</sup>

Despite the tenure reform programme and corresponding legislation, insecure tenure is still problematic and not conducive to furthering development. Research has shown that more investment goes into land where ownership, or at least secure title, is held over the specific parcel of

---

<sup>31</sup> Although there is a clear distinction between access to rural and urban land respectively, there is also a clear interplay between the two. Jones 2001 *Journal of Contemporary African Studies* 95-97 shows that rural males have undertaken virtually a life-long participation in the urban sector by providing labour there on the one hand, in order to preserve a primarily rural way of life, on the other. In many instances rural family members depend on salaries or other income of their urban-based relatives for survival.

<sup>32</sup> See also May and Vaughan "Mistaken Identity? Markets and the Strategy for Poverty Alleviation in Rural South Africa" 2000 *Indicator SA* 67-72.

land.<sup>33</sup> The less secure the tenure, the more likely are the chances that they will implement exhaustive cropping or refrain from taking precautions leading to conservation.<sup>34</sup> The Communal Land Rights Act has a major role to play in this regard. The Act functions on the basis that all communities will be able to acquire ownership of communal land. The lengthy process is set out in the Act, but basically entails that all old-order rights have to be converted or transformed into new-order rights, which rights will then be registered in either the community of individual members' names. The underlying theory is that, once registration has taken place, both access to land as well as secure tenure will have been provided.

Although the soil in these areas is generally of good quality agricultural-wise, poor management and non-utilisation of arable land to its full potential have led to poor agricultural performance.<sup>35</sup> Inadequate knowledge of local culture, poor evaluation of natural resources and poor knowledge of variations in soil types also led to abandonment of projects in these areas. In areas of poor management concerning high-potential land it also has a negative effect on the surrounding area since it places an unbearable extra burden on marginal land to compensate for the under-production. The Departments of Land and Agriculture should thus avoid previous mistakes at all costs and learn from experience gained.

It is also essential that land is transferred or that people are settled only after basic services have been installed. Poor or no infrastructure (eg poor roads, lack of water and electricity and inaccessibility of markets, lack of credit facilities and inadequate health and education services)<sup>36</sup> also have direct bearing on the (probable) failure of a project. Many practices in rural areas militate against sustainable land use, usually due to the extreme poverty levels of the community and lack of access to adequate natural resources. Provincial departments of agriculture and local governments need to do an "infrastructure audit" to identify gaps in the areas and to ensure that a coordinated list is provided in the Integrated Development Plans specifically providing for infrastructure development.

#### *4 1 2 The availability and acquisition of land*

The importance and contribution of agriculture in South Africa cannot be ignored: primary agriculture accounts for 4,5% of the gross domestic product. There are approximately 50 000 large farmers who are pre-

---

<sup>33</sup> Hofmeyr "Land Reform Projects Could Boost Rural Economy" 1999-07-09 *Farmer's Weekly* 54-55; and Qoza and Fife "The Span is Ready" 2002-10-11 *Financial Mail* 22-23.

<sup>34</sup> Bezuidenhout "Sustainability = Propaganda?" 2002-08-16 *Farmer's Weekly* 26.

<sup>35</sup> *Ibid.* Maize averaged as low as ½ ton yield per hectare whereas the average nation-wide yield is between 4-6 ton per hectare.

<sup>36</sup> See eg Chalmers "Half of Rural Homes Have Access to Power" 2002-04-18 *Business Day* 2.

---

dominantly, but not exclusively, drawn from the white population. In 2000 they accounted for about 10% of the country's total exports and currently employ more than 1 million workers.<sup>37</sup> About 240 000 small farmers provide a livelihood to more than 1 million of their family members and occasional employment for another 500 000 people. Then there are also about 3 million farmers, mainly in the former national states and communal areas, who produce food primarily to meet their families' needs. More than a half of the provinces and about 40% of the country's total population are therefore primarily dependent on agriculture and related industries.

Unfortunately good agricultural land in South Africa is limited. The best quality farm land is mostly still in the hands of white commercial farmers and is rarely sold. The land reform policy is market-led, market-assisted and market-oriented. This means that land is mainly acquired on the open market on a willing-buyer-willing-seller basis, with the result that, although extensive land may be acquired, the land is usually marginal. The market-based approach was initially embarked on to create an investor-friendly environment, to promote economic growth and to foster national racial reconciliation. However, in view of the dire need to address land inequities on the one hand and the relative slow progress of redistribution on the other, government presumably would want to acquire some of the best land available and vast tracts of it too. At this stage, however, government and other potential purchasers of land are mainly dependent on the usual media advertisements with regard to land available in the open market, with the effect that it would not necessarily attract the specific sector that is the main aim of redistribution.<sup>38</sup> A well-developed data base that is accessible to all potential role players, would go a long way in "opening up" the market. Obviously the right infrastructure also has to be in place for the data base to function effectively.

Up to now, government has refrained from employing expropriation to acquire suitable land and still relies on negotiation. The reasons seem to be the following: (a) government hopes that, by negotiations, farmers will be persuaded to sell land below market value, but still reasonably priced; and (b) government is avoiding the danger that a simplistic interpretation of international investors would equalize expropriation with confiscation similar to the Zimbabwe experience, with the result that consumer and investor trust could be compromised in the process. The impact of this approach was, however, that the pace, costs and direction of land reform were in the hands of the current land owners.

---

<sup>37</sup> That accounts for 11% of the total formal employment in South Africa.

<sup>38</sup> In SA land for sale is mainly advertised in the *Landbouweekblad* and *Farmer's Weekly*. Both publications at this stage have predominantly white readers.

A major issue, therefore, is how to acquire more, but at the same time, suitable land for mainly agricultural development. For this purpose expropriation in view of the Constitution is explored further. Section 25(2) and (4) of the Constitution specifically provide for expropriation and read as follows:<sup>39</sup>

- “(2) Property may be expropriated in terms of a law of general application –
- (a) for a public purpose or in the public interest; and
  - (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
- (4) For the purposes of this section –
- (a) the public interest includes the nation’s commitment to land reform; and to reforms to bring about equitable access to all South Africa’s natural resources; and
  - (b) property is not limited to land.”

As yet, land has not been expropriated for land reform purposes, but it is clear that such an endeavour has constitutional backing.<sup>40</sup> If land is expropriated, the compensation to be paid has to be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to the following factors:<sup>41</sup>

- the current use of the property;
- the history of the acquisition and use of the property;
- the market value of the property;
- the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- the purpose of expropriation.<sup>42</sup>

The latest development in addressing the tempo and impact of land reform, is the promulgation of the Restitution of Land Rights Amendment Act 48 of 2003. Although it is essentially a mechanism to be used in the restitution programme, it may also have a bearing on the redistribution of land, rendering a discussion necessary. Before this amendment, claims that could not be solved *via* mediation or the administrative procedure provided for in the Act, were referred to the Land Claims Court for adjudication. The Land Claims Court would then, if necessary, grant an order under sections 35(5) and 35(5A) of the Restitution Act that the land or right in question be expropriated and compensation determined. This process caused major delays in the overall restitution process.

<sup>39</sup> See, for more detail, Badenhorst *et al* 11-16 and 250; and Van der Walt *The Constitutional Property Clause* (1997) 115-120.

<sup>40</sup> See also Ed “Prudent Expropriation is Valid in Land Reform” 2002-10-11 *Financial Mail* 14.

<sup>41</sup> S 25(3) of the Constitution.

<sup>42</sup> See, for more detail, Badenhorst *et al* 98-100 and 103; and Van der Walt 142ff.

---

The newly inserted section 42E (Restitution Act) now provides that the Minister of Land Affairs may purchase, acquire in any manner or, consistent with section 3 of the Promotion of Administrative Justice Act 3 of 2000, expropriate any land, portion of land or right in land. If a valid claim has been instituted, the expropriation has as its purpose the restoring or awarding of such land, portion of land or right in land to the claimant who is entitled to restitution. These “acquisition powers” are not, however, limited to valid restitution claims only. Land may still be acquired if there is no valid claim, but it is clear that the acquisition (in any manner – not only by way of expropriation) of the land is directly related to or affected by a restitution claim. Although the power of expropriation now lies with the Minister, aggrieved parties are still free to approach the Court with regard to the amount of compensation as well as to the manner and time of payment. Being an administrative action in nature, the whole process may also be reviewed by the Court. Once the process of section 42E has been completed, the land vests in the State that has to transfer it to the claimant or relevant party. Government has indicated that expropriation will be reserved as a last resort only. Until such time government actually employs this new mechanism to acquire land, successful redistribution is without a doubt dependent on the co-operation of white commercial farmers.

#### 4 1 3 *Land use planning*

The pre-1994 planning framework was characterized by (a) *fragmentation*: across race groups, ethnic lines, provinces and jurisdictional boundaries; (b) *control-based*: zoning pre-determined the use of land parcels; and (c) *modernist Western-style standards and approaches* in that the single unit residential unit was the point of departure and that strict planning measures were adhered to.<sup>43</sup>

Today the encroachment of arable land for mining and residential purposes is an urgent matter that needs to be monitored. In this regard pro-active planning and land management are crucial.<sup>44</sup> Brief mention has already been made of the new land use planning and management framework which is in the process of being developed.<sup>45</sup> It is envisaged that these new measures will provide for an all-encompassing application procedure in which aspects such as sustainable development and environmental issues will be dealt with more effectively.

---

<sup>43</sup> See in general Van Wyk *Planning Law – Principles and Procedures of Land-use Management* (1999); and Pienaar and Balatseng 2001 *Seminar Report* 129.

<sup>44</sup> See also Pienaar and Balatseng 2001 *Seminar Report* 127-140; and Pienaar “Planning, Informal Settlement and Housing in South Africa: The Development Facilitation Act in View of Latin American and African Developments” 2002 *CILSA* 1-25.

<sup>45</sup> See par 3 above.

Finding sufficient land, which is suitable for settlement and that can be identified early in the planning process and released rapidly, is still a major obstacle to be addressed.<sup>46</sup> With the current housing crisis, the risk is there that land suitable for agriculture can be turned into large tracts of informal settlement. To prevent this, closer links with the Departments of Housing, Agriculture and Land are essential.<sup>47</sup>

The impact of population migration on the planning and provision of infrastructure also needs to be researched in more detail.<sup>48</sup>

Finally, the composition of the planning team designing the redistribution project is also extremely important: each project has to be evaluated with care, individually – an exercise that takes knowledge, experience and training.

#### 4.1.4 *Labour issues linked to land reform*

The introduction of new legislation regulating farm workers<sup>49</sup> and labour tenants<sup>50</sup> – in particular dealing with the suspension of employment and possible eviction – has been problematic for many land owners. The initial years after commencement of these measures have also led to large scale eviction which was followed by equally large scale litigation.<sup>51</sup> Despite the flow of evictions slowing down considerably during the past few years, unlawful eviction is by no means something of the past. The automatic review provision in ESTA (s 19(3)) has also shown that the majority of eviction orders granted by magistrate's courts are still being overturned in the Land Claims Court – a clear indication that land owners, legal counsel and many lower courts are still not sufficiently familiar with the workings of the Act.<sup>52</sup> Unlawful eviction of farm workers and labour tenants and associated litigation is generally not conducive for development in the area since it leads to deterioration of relationships and the loss of *bona fides*. The Department should urgently investigate alternative dispute resolution with regard to evictions instead of litigation.

<sup>46</sup> See also Pienaar 2002 *CILSA* 1-25.

<sup>47</sup> The dire need for better co-operation between the various departments was recently underlined in the *Modder East Squatters v Modderklip Boerdery (Pty) Ltd; President of the RSA v Modderklip Boerdery (Pty) Ltd* 2004 8 BCLR 821 (SCA).

<sup>48</sup> Cross "Why Does SA Need a Spatial Policy? Population Migration, Infrastructure and Development" 2001 *Journal of Contemporary African Studies* 111-127.

<sup>49</sup> The Extension of Security of Tenure Act 62 of 1997.

<sup>50</sup> Land Reform (Labour Tenants) Act 3 of 1996.

<sup>51</sup> See *eg*, Du Plessis, Olivier and Pienaar "Progress in Land Reform, Illegal Occupation of Land and Judicial Interpretation" 2002 *SAPR/PL* 178-209; and Du Plessis, Olivier and Pienaar "Expropriation, Restitution and Land Redistribution: An Answer to Land Problems in South Africa?" 2003 *SAPR/PL* 491-515.

<sup>52</sup> See for more detail Du Plessis, Olivier and Pienaar 2003 *SAPR/PL* 498-501.

---

Another development that has impacted on labour relations in the agricultural area, is the commencement of the minimum wages regulations published under the Basic Conditions of Employment Act 75 of 1997 with effect from 1 March 2003. Two categories of wages, depending on the district in which the farm is located, have been identified. The minimum wage applicable to farms close to towns is R880, whereas R650 is prescribed for farms in remote areas. Although the Act has only been in operation for a year, both sides of the farming sector have been affected: many labourers have lost their jobs due to the farmers not being able to pay them, major restructuring processes have been embarked on and in many instances mechanization has resulted in people losing their employment.<sup>53</sup> On the positive side many labourers have received salary increases and housing has been upgraded.

## 4.2 Geographical and climatic factors

Unfortunately one also needs to be realistic about the country's capacity to bear a large number of commercial farmers and to guarantee viability and sustainable livelihoods. South Africa's natural resources and geographic distribution are thus also important factors. Apparently only 13% of South Africa's agricultural land is deemed good for intensive farming. Skeptics say that the crop-production potentials that are published for South Africa are unrealistically high, because they are sometimes based on production potentials founded on the experience of the Northern hemisphere.<sup>54</sup>

Much of South Africa has low or unreliable rainfall and is dominated by soil which is inherently unstable or poor for cropping purposes. The recovering potential of much of the soil is also extremely low. Even slight planning or management errors can thus have long-term effects.

The situation can deteriorate even further when no environmental impact assessments are done before development takes place. In view of the fact that land reform, especially redistribution, has to be expedited, some communities have refrained from complying with the environmental impact assessment regulations issued under the Environment Conservation Act. It is, however, not clear on which authority such exemption occurred. Although section 28A of the Environment Conservation Act provides for such exemptions, in many instances no formal exemptions were given.

---

<sup>53</sup> Malan "Loonwet: Redding of Fiasco" 2003-11-18 *Die Burger* 9.

<sup>54</sup> One has to keep in mind that the soil resources in this country differ dramatically to that of the United States and Europe. South Africa cannot afford to publish policies that are not based on South African realities. See for more detail Bezuidenhout 2002-08-16 *Farmer's Weekly* 26.

### 4 3 Gender inequity

Although gender is not the main focus of this paper, it has a definite role to play in land reform and sustainable development.<sup>55</sup> It is imperative that women become involved in decision-making processes effecting sustainable development since they are the primary users of natural resources in rural areas. Furthermore, more than half of the rural households are headed by women.<sup>56</sup> The gender roles of men and women, their needs and available resources and the constraints they experience have important implications for the design of rural development efforts.

Research done in KwaZulu with regard to the Ekuthulani land redistribution project indicated that in that particular case, women had not benefited from the land reform programme.<sup>57</sup> The main obstacle identified was the invisibility of female farmers and the overall low profile of women as agricultural producers. It was clear that in this project women's knowledge of and experiences with agricultural production in relation to resource use, environmental and development sustainability and household food security were not incorporated in land reform and agrarian initiatives. Because women were not consulted and were not part of the planning and decision-making processes, their needs and priorities were never accommodated. For example: women by far identified land for housing purposes and food production as critical priorities whereas men identified land for pasture and cropping as priority. Since men formed the decision-making machine large tracts of land were made available for pasture and cropping, although the whole community had access to pasture. However, women did not own any cattle, but focused more on poultry.<sup>58</sup> As such, they thus gained no benefit from the pasture land but instead, lost some of the parcels of land previously used for food production. This led to more and more families having to rely on cash to buy food, since less food was produced locally by the community's women. Although cropping was generally a male function, it was mainly the women who tended to the crops and food gardens. When women were allocated parcels of land they tended to have marginal or remote land when compared to that of the men, more so in the case of single women. Although women were mainly responsible for collecting water, the location of pipes and boreholes were determined by the men. When officials of the Department of Land Affairs visited the community the women were

---

<sup>55</sup> See in general the following sources Govender-Van Wyk "Gender Policy in Land Reform" 1999 *Agenda* 66-69; and Pienaar "Broadening Access to Land: The Case of African Rural Women in South Africa" 2002 *TSAR* 177-204.

<sup>56</sup> Khumalo "Are Women Free Enough Yet to Participate?" June 2001 *Rights Now* 7-8; and Kehler "Women and Socio-economic Development" June 2001 *Rights Now* 8-11.

<sup>57</sup> See, for more detail, Bob "Rural African Men, Food (In)security and Agricultural Production in the Ekuthuleni Land Redistribution Project, KwaZulu-Natal" 2002 *Agenda* 16-32.

<sup>58</sup> Bob 2002 *Agenda* 21ff.



---

never consulted. The chances of success deteriorate even further when communities are settled on fragile land that is susceptible to erosion or on land of low arable quality that has been overgrazed.

Households continue to assume that male members own the land, despite policy documents and legislation propagating joint ownership. What happens in practice, however, is that men act on and enforce this perception, resulting in gender-differentiated approaches, different focuses and different priorities which all have an impact on the sustainability of the project. Thus, despite the land reform initiatives the position of women has not improved, mainly due to continuing power relations and the fact that labour division has not changed at all.<sup>59</sup>

It is therefore proposed that a “gender audit” be done during the project design phase so that the roles of and relations and processes between men and women in the community can be systematically examined. Thereby insight will be gained into the actual working of the community and the power relations therein – especially with regard to access to land and natural resources. This will also help to predict the possible effect of the project on the beneficiaries and to which extent women would be able to benefit and participate – or not.<sup>60</sup>

One has to keep in mind that sustainable development requires a partnership between different individuals, communities and government. If one sector of the community is invisible, it is impossible that the ultimate development can take place. Developers should also specifically seek input from women’s organizations. As yet, it has not been determined exactly how many women have benefited from land reform initiatives; and how and to what extent (if at all) they have been empowered.

Initial criticism against the Communal Land Rights Act was also aimed at the gender disparity that some of the provisions perpetuate. In communities where a recognized traditional council is in operation, that council will perform the duties of a land administration committee. The risk is thus that traditional councils will not support female land rights enough. The final version of the Act, which was promulgated on 13 February 2004, was amended in some instances to address gender inequity. Section 1(2) provides that an old order right held by a married person, despite any law or practice, is deemed to be held by all spouses jointly in undivided shares, irrespective of the matrimonial property regime. Once the old order right is confirmed in terms of section 18 of the Act, the right is registered in the names of all spouses. Section 4(3) furthermore specifies that a woman is entitled to the

---

<sup>59</sup> See, for more detail, Thorp “Access to Land: A Rural Perspective on Tradition and Resources” in Meer (ed) *Women, Land and Authority: Perspectives from South Africa* (1997) 17-34.

<sup>60</sup> See also Bob 2002 *Agenda* 22.

---

same legally secure title, rights in or to land and benefits from land as a man. Although this section emphasizes that no law, community or other law, practice or usage may discriminate against any persons on the ground of gender, the provision relating to the continued operation of traditional councils was not, however, amended. It is clear that the Act now provides for formal gender equity, but whether it is going to be effective in practice is another question.

## **5 MARRIAGE INTERVENTION: RECENT DEVELOPMENTS THAT IMPACT ON LAND REFORM AND DEVELOPMENT**

### **5.1 Introduction**

The many challenges that South Africa faces may create the impression that the marriage is already on the rocks. But what about the more recent past: is it possible that marriage intervention in the form of newly announced plans and policies can calm the stormy waters? Or is it too late for salvation?

### **5.2 Land Redistribution for Agricultural Development Plan (LRAD)**

The Land Redistribution for Agricultural Development Plan (LRAD) was first introduced in April 2000 and is specifically aimed at strengthening the support system and infrastructure needed to assist previously-disadvantaged farmers. In principle the Plan entails providing grants to purchase land, with the difference that the applicant also needs to make some form of contribution, either in cash, in kind or in labour. Grants range from R5 000 to R100 000 – the latter is available to farmers with managerial experience and who want to farm on land costing more than R400 000. The plan has many benefits:

- (a) it is demand-directed in that the applicants decide what they want to do; how they want to do it and how much they are willing and able to contribute;
- (b) the plan functions on a progressive scale: the more the applicant is able to contribute, the bigger the grant is going to be;
- (c) all applications, irrespective of outcome, follow the same application procedure;
- (d) the process is decentralized in that assistance is already given on the local level, although approval of an application is given on the provincial level;<sup>61</sup>

---

<sup>61</sup> Applications are drawn up with the assistance of the local agricultural official. Once the official has given his or her opinion regarding the viability of the proposal, the participant

- 
- (e) in-depth monitoring takes place – both financial and physical monitoring to ascertain whether the funds had been appropriated and used as set out in the application;
  - (f) successful applicants have to undergo compulsory training;
  - (g) environmental impact assessments are provided for, but are not compulsory; and
  - (h) The plan can also be used in the restitution process. Land acquired *via* restitution can also be offered as own contribution which could ensure a bigger grant to be allocated.

In order to implement the plan successfully, the development of sufficient infrastructure is essential. This *inter alia* means that more investment has to be made, particularly in rural areas, with regard to extension services and market development. In view of the fact that many functions have been decentralized to local level and that local agricultural officials will be directly involved in applications, capacity building and investment on local government level are crucial. This would also entail training courses for personnel and budget increases. It is ironic that budget cuts and rationalisation of staff have been especially severe on local government level during the past few years.

The Department of Land Affairs still has to develop a complete database to be consulted indicating available land and/or farming opportunities. Such an all-encompassing data base would also be useful for the acquisition of land in general – not only for redistribution purposes.

Although participants may do all the planning themselves, it is highly likely that more applicants will make use of expert assistance to guarantee approval of the farm plan or land use proposal. Although the grant can also be used to pay for services provided by a design agent, the rendering of such services can be expensive.

With regard to land use planning, rezoning may still be required in many instances, for example, where a portion of the land is going to be used for agricultural purposes whereas another portion is going to be used for commercial purposes. The rezoning procedures are still complex and time-consuming. Although the subdivision of land for land reform purposes does not require an applicant to approach the Minister of Land Affairs for a subdivision approval, rezoning still requires such a ministerial application. The subdivision and rezoning procedures are therefore still cumbersome, and

---

submits the application to the provincial grant approval committee that meets weekly or as frequently as required.

are going to remain so for the time being until the subdivision of land legislation has been amended or repealed.<sup>62</sup>

Although the plan provides for upgrading in that an applicant can progress from, for example, subsistence farming to small commercial farming, the maximum grant such an applicant can receive in his or her lifetime is R100 000. Unfortunately that amount does not go a long way in agriculture today. Perhaps exceptions to the monetary limit should be investigated by the Department for farmers who excel.

An all-encompassing package, developed for each individual applicant, consisting of mainly support systems being in place, is still lacking.

Although monitoring is one of the positive aspects of this programme, it is essential that it should, at least during the first few years, be ongoing and not a once-off exercise. The ideal is that these projects *remain* viable.

It is imperative that interested parties are fully informed of the procedures and what is required from them. After a few years of operation, it seems that many are still unsure what the required steps are and how long such a process can take.<sup>63</sup>

### 5 3 Strategic Plan for South African Agriculture

The Strategic Plan for South African Agriculture was announced in 2002. This is a joint venture of Agri-SA, the National African Farmer's Union and the Departments of Land Affairs and Agriculture with the vision to establish and to develop a united, non-racial, prosperous agricultural sector.<sup>64</sup> The goals are threefold: to promote (a) access and participation; (b) competitiveness and profitability; and (c) sustainable resource management.

Despite the strategic importance of agriculture in South Africa and despite numerous policy documents, legislation and programmes, it is still not functioning optimally due to, *inter alia* institutional constraints and basic shortcomings in the generation of growth, competitiveness and equity. Obviously the new vision has to address historical legacies and biases that resulted in skewed access and representation. One aspect that would have to be investigated, is the possibility that the wide range of government

---

<sup>62</sup> The Subdivision of Agricultural Land Act Repeal Act 64 of 1998 has not commenced yet. See for instance, *Geue v Van der Lith* 2004 3 SA 333 (SCA).

<sup>63</sup> An interview with Mr Jethro Mbau, Director of the Land Bank, had shown that many people are ignorant with regard to the complexity of the process and which steps to be taken. He warns that the process can take up to 3 years to complete and many applicants are not prepared to wait so long – Anon “Talle Boere nog Onkundig oor LRAD-stappe” 2003-09-19 *Landbouweekblad* 17.

<sup>64</sup> See also Cook “President to Discuss Farming Plan with Stakeholder Group” 2002-04-30 *Business Day* 7.

---

measures – including land reform initiatives – have either not been implemented effectively or have not delivered, as promised. In this process aspects such as the fragmentation of services, inadequate resources, and weak governance would also have to be investigated.

For purposes of this discussion the whole strategic plan will not be analysed in detail, but the emphasis will be placed on the following: (a) the management of natural resources and (b) land reform.

### 5 3 1 *The management of natural resources*

The strategic plan underlines that land is also a natural resource and an extremely valuable one at that. Unused land of high and medium potential is not abundant. There are at present clearly not enough services to support sustainable land use, nor are the existing services efficient. In order to address the issue of sustainable land use, various sub-strategies have been devised, *inter alia*: to develop

- Good governance;
- Integrated and sustainable rural development; and
- Knowledge and innovation.

The objective of this section of the strategy is to enhance farmers' capacities to use resources in a sustainable manner and to ensure wise use and management of natural resources.<sup>65</sup> This will require a long-term view with a clear vision and values that will guide the present use of resources to ensure their long-term supply. This strategy will impact on land care,<sup>66</sup> land redistribution, land use in the urban environment, zoning of high potential agricultural land, the preservation of sensitive land areas, biological diversity and water systems. Central to this strategy is the need to preserve agricultural biodiversity and to promote the sustainable use of soil and water through the enhancement of crop and livestock productivity in intensified and more sustainable farming systems. Farmer participation is the key to its success: even if all the plans, policies and strategies are in place it can still come to nothing if the farmer does not participate actively.

Sustainability is furthermore not only South Africa's problem, but spreads across political borders. The whole of the Southern African Development

---

<sup>65</sup> See also Scheepers with regard to the role of land administration in developing land use towards sustainable development – "Land Administration: Facing the Realities of Implementing Land Reform Programmes in South Africa" 1997 *SA Journal on Surveying and Mapping* 11-18.

<sup>66</sup> The Land Care Programme was already embarked on in 1998. At this stage the programme is directly linked to job creation which focuses on varying projects, such as the building of anti-erosion structures, the clearing of invader plants and the rehabilitation of irrigation schemes.

---

Community has to take ownership of its resources and has to ensure that they are properly managed.

Degradation of especially soil and water sources needs to be investigated. Strategies need to be designed to overcome the cause of such degradation. Here strong institutional support, research and change to existing farming patterns all play a role. At this stage, government is focusing efforts firstly on areas where there is a reasonable chance of success. If that is the case, serious questions are asked about the future of sustainable resource management in areas where the need is the greatest – but the chances of success not necessarily that good – for example in the former national states and self-governing territories.

### 5 3 2 *Land Reform*

The process of economic empowerment in agriculture is based on two crucial links: (a) access to land (not only more land, but the “right”/suitable land) and (b) secure tenure. Although LRAD has had some impact and has furthered redistribution, there are still urgent needs:

- The need to expand the range of support measures available to previously disadvantaged South Africans; and
- Access to land for specifically agricultural purposes.

One of the factors that have been identified to move the strategic plan closer to implementation was to fast-track the programme of land redistribution for agricultural development and processes that can empower communities. This means that the strategic plan envisages start-up packages for new entrants and partnerships between relevant role players. In this way the past processes of exclusion could be addressed while existing farmers can be encouraged to continue to participate further. Because farmers must have pride and confidence in the farming sector, it is also necessary to address low profitability, indebtedness, security problems, consumer concerns for food safety and legitimacy issues. For more black South Africans to enter into this sector, well-designed and targeted efforts to level the playing field are crucial.

The process could be expedited by, *inter alia*, utilizing the large tracts of state-owned land. This effort will be more robust if we know exactly how much state land is available and where the land is located. Again, the need for a well-equipped data base is emphasized. Other methods to expedite the redistribution process and to further empowerment are to encourage equity sharing schemes and to investigate the possibility of contract and rental farming. Irrigation schemes, especially in the former national states, are also in dire need of restructuring. In the past post-settlement support for land reform beneficiaries has been on an *ad hoc* basis and with only a limited

---

impact. However, not only new entrants to the sector need support: extended support should be available to *all* farmers: existing and new entrants; small, medium and large.

New entrants from historically disadvantaged groups that have gained access to land not *via* the land reform process but by way of private purchase, rental agreements or bequests should also undergo a needs assessment to establish which support services will be imperative to increase the chances of success.

On the organizational level investment in partnerships and better relationships is also imperative. A stronger partnership between farmers' organisations and unions and government is to be promoted further. The establishment of agricultural cooperatives in poorer regions should also be encouraged.

### 5 3 3 *Other relevant issues*

The Strategic Plan also identifies the development of a strategic and sustainable *rural development plan* as essential for the successful upliftment of the agricultural sector. Aspects that are specifically mentioned are that special attention has to be given to livelihood activities by women and that rural settlement planning needs to accommodate new settlement patterns to depart from the pre 1994 racially based settlement planning. The reference to women is unfortunately rather vague with no real proposals as to how women's activities will be addressed. As set out above, rhetoric is powerless to change lives on a daily basis as long as certain perceptions and practices remain imbedded in the community.

A positive outcome of the Plan was that, although not all white commercial farmers are equally enthusiastic about land reform in general and redistribution in particular, formal agricultural unions have already offered their assistance in many forms. A data base has recently been established with details about experienced white farmers who offer assistance, advice and mentorship to upcoming, inexperienced farmers. The frequency of use of the data base is, however, not known at this stage, but it is an initiative that can become very useful in future.

## 6 THE FUTURE: POSSIBLE MARITAL BLISS?

The recent developments introduced to streamline the redistribution of land, increases in budget allocations and programmes that focus on sustainable development and resource management all contribute to a more effective land reform effort – compared to the early years of implementation. Still, many shortcomings hamper a closer working partnership between land reform on the one hand and sustainable development, on the other.

---

*Budgeting problems:* The costs of land reform can be calculated up to a point, for example, the following aspects can be calculated and thus budgeted for: the purchase of land (or other compensation in the case of restitution claims) as well as the costs involving training of staff and newly established farmers; loans and other monetary expenses. But, as yet, the costs of developing land units to be *fully sustainable* have not yet been calculated due to many variables, including the weather and climatic factors and the long-term sustainability of natural resources.<sup>67</sup> Because it is impossible to determine the full costs from the outset, the Department and all other role players involved should take cognisance of this fact and should build it into their overall budget by, for example, providing for reserve funds if necessary.

*Investment in research:* over the past years research funds have been deteriorating. If land is to be used optimally and in a sustainable manner, more research has to be done, indicating an urgent need for more research funding. Further participation of the Agricultural Research Union is therefore to be expected.

*Training and capacity-building:* a general lack of capacity on local government level in view of land reform and agricultural expertise bodes ill for the success of redistribution projects. Training on the other hand, affects both the implementers and the beneficiaries: departmental officials need to be fully equipped to assist applicants and successful applicants must have the necessary know-how to transform their grants into successful, sustainable portions of land.

*Black farmers' organizations:* the establishment of organizations for black farmers should also be encouraged.<sup>68</sup> Not only would such an organization be perfectly suited to address problems or issues unique to this sector of agriculture, but members would also be able to vocalize their needs and demands more effectively if focused and pooled.

*Subdivision, planning and zoning legislation:* it is imperative that legal certainty be reached with regard to the subdivision of agricultural land so as to prevent applicants from scrutinizing all the various land reform acts that exclude the application of the Prohibition Act in specific instances. Draft land use planning and management provisions are also in dire need of finalisation and commencement.

---

<sup>67</sup> Other factors that might have an impact are increases in production costs but fall in consumer price, possible termination of subsidies, *etc.*

<sup>68</sup> In 2002 former Umkhonto we Sizwe general Sakkie Mbungi drummed up the support of 3 5000 black farmers to start up an organization known as the Emerging Black Farmers' Association.



---

## 7 CONCLUSION

The mere transfer of land does not guarantee successful land reform – it is crucial that the right land goes to the right person or persons. It should firstly be determined for which purpose the applicant or beneficiary wants to acquire land. Indications are that housing the nation is currently the major need. People who want land in order to build houses therefore do not need agricultural land as such.<sup>69</sup> There should also be clear distinctions between small (subsistence), medium and commercial farmers so that the right size of land with the correct attributes is allocated. Due to the specific South African geography and climate no mistake can be afforded in allocating the wrong parcel of land to a specific applicant.

The lack of skilled black farmers to maintain South-Africa's agricultural produce poses an urgent challenge to government. Here a long-term solution is needed. Training programmes, support packages and the establishment of more black farmers' unions will go a far way in addressing this issue.<sup>70</sup>

On a more technical level, the development of an all-encompassing data base indicating the availability of both state-owned and private land for redistribution purposes is essential. Such a data base can also include mechanisms to access information about relevant support systems and farming opportunities, as well as possible applications on-line. However, all persons involved in the redistribution process – including aspirant applicants – would need access to such a data base, underlining the necessity of having the necessary infrastructure in place.

It is indeed a very unique balancing act required from government: addressing the demand for land on the one hand and maintaining South Africa's agricultural production on such a level so as to meet the daunting socio-economic tasks faced by government on the other.

Certainly, not every marriage is a “and they lived happily ever after” affair, but in the instance of land reform and sustainable development South Africa can hardly afford a divorce on the basis of “irreconcilable differences”.

---

<sup>69</sup> See eg, 2002-10-11 *Financial Mail* 22-24; and Van Zyl “Earth-shattering Moves? It's Not About Land but a Lack of Money and Housing” 2002-06-21 *Finance Week* 44.

<sup>70</sup> Keep in mind, however, the research done by Lipton, Ellis and Lipton “Introduction” in Lipton, Ellis and Lipton (eds) *Land, Labour and Livelihoods in Rural South Africa* (1996) xii where they indicate that entrenched migrant culture has turned rural areas into places of retirement and refuge for migrant workers and that young South African men are averse to working in agriculture as it is seen as an unmasculine form of labour.