

South African Land Reform and the Global Development Industry

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Abstract: Over the past decade, “land issues” have reclaimed centre stage in international development debates, with Hernando De Soto's influential work on land tenure and capitalism playing an important catalytic role. Post-apartheid South Africa has been highly visible in international discussions and debates about land reform, land tenure and land administration. The three major elements of land policy in South African, namely tenure reform in the former “homelands,” restitution, and “market-based” land reform, have frequently been used as an example or model in discussions about land policy in other countries. South African land policy has frequently been used to draw contrasts with the highly publicised land reform policies in Zimbabwe. This paper will analyse the way in which the “South African model” has been deployed in debates about land and development. It will examine in particular the discussions and debates leading up to the World Bank's 2003 report “Land Policies for Growth and Poverty Reduction,” and the use to which South African examples and policies are put in the final report.

RENEWED FOCUS ON LAND REFORM

Since the mid-1990s, there has been an increasing focus on the role of land in promoting economic growth and poverty alleviation in the international academic and professional debates about development.¹ In a widely cited 1978 article in *World Development*, David Lehman pronounced the 1950s to 1970s wave of land reform as “dead.”² Since the mid-1990s, however, land has been very much alive on the policy agenda of the international development industry.

The failure of macro-economic restructuring, which characterised the mid-1980s to mid-1990s “Washington Consensus,” led to an increased emphasis on “second-generation” reforms and in particular on institutions, including land tenure generally, and specifically on tenure insecurity. Increased emphasis has been placed on the impact of extreme inequality on overall economic growth, especially in Latin America, and access to land and other assets has increasingly been seen as a key determinant of inequity (reflecting in part the extremely influential work of Amartya Sen).³ The widely debated 2000 World Bank *World Development Report* - heavily influenced by Sen's approach - outlined three key areas for action in order to reduce global poverty: promoting opportunity, facilitating empowerment, and enhancing security.⁴ Land reform was seen as a key element of “promoting opportunity,” while security of

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<http://www.africa.ufl.edu/asq/v9/v9i4a5.pdf>

tenure was seen as a key target element of “empowerment,” especially in the context of making the legal system “more responsive to poor people.”

The end of the Cold War and the sudden inclusion of the former Soviet bloc into the realm of international development gave further impetus to land policy issues, with the moves to privatise former collective farms and other production units, to (re) establish a land-market, and to provide restitution to former land-owners whose lands were seized in Communist era land reform initiatives. In addition to this renewed interest in land reform projects in international development debates, during the late 1980s and early 1990s, there was significant academic interest in issues of land and resource tenure. This was often as a result of increased social science research into environmental issues and the role of “communities” in natural resource management, especially in Africa and South Asia. Much of this work emphasised the complex and contested nature of land and resource rights and examined the social and historical setting of land and resource rights (for example see articles by Berry, Peters, Shipton and Goheen in the special 1992 edition of *Africa*).⁵ In the African context, this academic work often critiqued previous land tenure reform programmes, for example the World Bank funded land titling programmes in Kenya, and conservation projects, especially the establishment of national parks and game reserves, from which farmers and herders were expelled. In much of this work there were often explicit or implicit connections drawn between the impact of some of the contemporary conservation and development projects on land and resource rights and prior colonial era development projects, such as the infamous South African “betterment schemes.”

Ideas associated with “new institutional economics” have played an important role in much of the academic work on resource and land tenure.⁶ This perspective places an emphasis on institutions that mediate relations between individuals, including the market. In terms of land markets, the “new institutional economics” framework places an emphasis on property rights - the social relations between people that dictate how property is owned, accessed, used or transacted - often described in the land tenure literature as a “bundle of rights”. The new institutional economics approach to property rights meshes well with the general development studies interest in institutions, as outlined in the *World Development Report* 2000. The failure of past land reform efforts from the 1960s and 1970s has been explained in terms of a failure to understand the “institutional economics” of property rights.⁷

This increased interest in land and the institution of property rights in the international development community has led directly to increased investments into “land projects” by international development agencies. Between 1990 and 1994 the World Bank approved only three stand-alone land projects. In the 1995-99 period this increased to nineteen projects approved (with US\$700 million in funds commitment) and twenty five projects approved in the 2000-2004 period (with US\$1 billion funding commitment). In Latin America and the Caribbean, the Inter American Development Bank, the World Bank and U.S. Agency for International Development have all placed an emphasis on land administration projects, with at least US\$ 851 million in investments into these projects being committed over the past decade.⁸ Unlike the previous land reform initiatives in Latin America, the emphasis in many of these new projects has not been on redistributing land-holdings from large landlords to small peasant farmers through direct government action, but rather on improving the functioning of the legal, technical and institutional framework for land ownership, with the objective of increasing

security of tenure for poorer households. Much of the investment in Latin America has gone into land titling programmes, through which households occupying land with no formal documented title are given various forms of title documents. By contrast, much of the land-related World Bank funding in Africa is contained in either wider structural adjustment programmes or in more integrated rural development projects.

In 2000, interest in land titling projects beyond the normal confines of the development industry was given a significant boost by the publication of an extremely influential, widely read and hotly debated book by Peruvian economist Hernando de Soto. De Soto's book *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* received widespread media attention and was favourably reviewed in a whole host of international newspapers and journals.⁹ The *Economist* magazine declared that it was "the most intelligent book yet written about the current challenge of establishing capitalism in the developing world."¹⁰ The media frenzy that the book created has been fuelled by the accolades that De Soto subsequently received from a whole host of major international figures, probably most notably from former US President Bill Clinton, whose face and endorsement currently (June 2007) grace the home-page of De Soto's Institute for Liberty and Democracy (ILD). De Soto is seen as a key player in not just Latin American development circles (in which he was well known prior to 2000), but across the globe. In addition to its "think-tank" role, ILD has implemented or advised governments on a whole series of land titling projects in numerous countries (including Peru, Mexico, Brazil, Tanzania, Egypt, and the Philippines), often with USAID funding.¹¹

The arguments presented in *The Mystery of Capital* are neither new nor exceptional. The basic premise behind the book is that that poor people are unable to take part in the market-economy, and make capitalism work for them, because of the existence of a bureaucratic and legal system that does not recognise the assets that they hold (especially land). This therefore prevents them from taking full advantage of the asset to create working capital, increased income and improve the standard of their living. The solution to this problem is widespread and drastic legal reform to bring these informal assets into the formal system and to unlock the massive hidden capital that they represent. As in the new institutional economics approach, there is a particular emphasis on reforming and building trust in the institutions that regulate property (land registries, cadastres, licensing agencies etc.), but also on the possibility of massive one-off land titling programmes to bring large numbers of poor people currently occupying land in the "extra-legal" realm into the formal system. De Soto places special emphasis on the way in which European and U.S. legal systems adapted in the nineteenth century to take into account and formalise extra-legal property relations that had arisen in response to changing demand for land. Given its avowed evangelical ambitions and block-buster tone, *The Mystery of Capital* inevitably simplifies and glosses over many issues surrounding property, informality, and legal reform, but it has certainly led to a huge and seemingly growing interest in land as a key component in the development debate.

The huge interest in De Soto's book has also spawned an opposition movement to "World Bank land titling" programmes, with international peasant solidarity groups such as 'Food First' and 'War on Want' targeting De Soto as an agent of global capitalism and a (witting or unwitting) advocate for the oppression of peasants. The support that De Soto has received from the *Economist* magazine and even Margaret Thatcher has not helped his cause with left-leaning

ant-globalisation campaigners. There is now a “De Soto Watch” website, dedicated to highlighting ILD's involvement in projects around the world.¹²

THE WORLD BANK'S POLICY RESEARCH REPORT

Within the international development industry, the interest created by De Soto's work was further increased by the discussion leading up to the publication of a new World Bank Policy Research Report (PRR) on land issues in 2003. During the 1990s, the World Bank conducted or contracted a significant amount of research into land policy and related issues. In keeping with a general shift in World Bank policy, there was also a more concerted effort to consult with “stakeholders” and with research communities outside of the Bank. The previous World Bank official position paper on land reform was the 1975 “Land Reform: Sector Policy Paper” and the Bank recognised that much of the content and ideological basis of that report had either been overtaken by events, experience or subsequent research. The Bank therefore set about publishing a revised Policy Research Report on land issues to try to distil the initial experience gained through a new round of international development agency funded land projects and the new research into land tenure, especially the institutional basis of property rights.¹³

In order to try to form a broad consensus on land policies, the Bank invited a number of well respected academics to form an external technical advisory committee and invited a broad range of other bi-lateral and multi-lateral agencies, NGOs, advocacy groups and government representatives to take part in a series of regional workshops and on-line discussion forums. Some civil society groups, most notably Brazil's MST (the Landless Workers Movement), refused to take part in the consultations on the new PRR. Consultants were contracted to undertake supporting research projects in a variety of related themes and a large number of papers, discussant responses, position papers and commentaries were either presented at the four regional workshops (April-June 2002) or during the email discussion forum (December 2002-January 2003).¹⁴

Both inside and outside the PRR consultation process, the major point of debate was “market-assisted” or “negotiated” land reform programmes, especially the programmes in Brazil, South Africa and Colombia. Interestingly these land reform programmes, widely regarded as World Bank “flagship” projects, were not actually mentioned in the initial discussion draft of the PRR released by the World Bank.¹⁵ Nevertheless, the World Bank's support of these programmes became the major contentious issue in the debates around the PRR. The Bank's support of the projects was cited as the reason that some social movements refused to take part in the discussion. Speaking at a 2003 final consultation on the PRR in Washington D.C., Robin Palmer, Oxfam's Global Land Policy Advisor (a key researcher-cum-advocate on land and property rights, who took a very active role in the discussions around the PRR) stated:

for many of my colleagues and Oxfam partners such close collaboration [between Oxfam and] the Bank is highly problematic, and in some countries would be deemed quite inappropriate on account of much extremely negative past historical experience. I am thinking here of countries such as Indonesia and parts of Central and South America. The Bank would do well to remember that very many people across the world unambiguously see it as ‘the

enemy', as being totally dogmatic in its approaches (for example over market assisted land reform), as being unwilling to listen, and as being fundamentally antagonistic to the needs and interests of the poor.¹⁶

THE WORLD BANK AND LAND REFORM IN SOUTH AFRICA

Market-assisted or negotiated land reform initiatives refer to land reform projects in which the state provides grants or cheap loan financing to targeted individuals or groups to assist them in purchasing land from existing land-owners on a "willing seller-willing buyer" basis and, crucially, to provide the beneficiaries of the programme with some working capital to initiate productive agriculture. The state tends to play a facilitative role in these market-assisted programmes, helping potential beneficiaries identify suitable land, assisting in negotiations, and undertaking the necessary legal formalities to transfer the land.

The two most commonly cited market-assisted land reform initiatives are those in Brazil and South Africa. The South African land reform programme is often cited as a "pet project" of the World Bank, despite the fact that it has not been financially supported by direct Bank funding. The World Bank has, however, played an extremely important role in designing and subsequently re-designing the South African land reform programme.

The World Bank's involvement in South African land policy began prior to the first democratic elections, with a series of visits from Bank staff and consultants beginning in early 1992. Possibly the two key World Bank advocates for land reform during the current era, Klaus Deininger and Hans Binswanger, took part in some of these early consultations. In 1993, Deininger and Binswanger published an article in *World Development* making a strong case for a "rapid and large scale land reform programme," arguing that South Africa faced a choice between a large-scale reform programme or decades of peasant insurrection.¹⁷

These sentiments were regarded with suspicion by many in the southern African development studies community. Richard Levin and Daniel Weiner, writing in a book produced as part of the MacArthur-funded "Community Perspectives on Land and Agrarian Reform in South Africa" (CPLAR) project, regarded these as "unexpected sentiments." They argued that these statements appeared to be part of a "process of legitimizing the Bank's presence within South Africa," implying they were an element of an overall project to embed a "neo-liberal" development agenda rather than a genuine desire to advance the land reform agenda.¹⁸

While undoubtedly in this period the World Bank was seeking a role for itself in a post-apartheid South Africa, this view perhaps takes a too instrumentalist line, as Binswanger in particular had a long history of advocating a central role for small-scale farming within World Bank development priorities. Levin and Weiner's comment also possibly downplays the strong international moral impetus to identify with the oppressed black population of South Africa – a sentiment that would surely affect even World Bank economists. World Bank consultants did, however, clearly play a lead role in developing the rural policy agenda for post-apartheid South Africa. After 1994, the World Bank's Rural Reconstruction Programme proved to be highly influential on the new democratic government's land and agrarian policy and the basic land programme components found their way into official South African policy.

THE POST-APARTHEID LAND REFORM AGENDA

South African land policy has consisted of three major strands: land restitution, land redistribution and land tenure reform. The land restitution component has involved the process by which people or descendants of people evicted from land as a result of racially discriminatory laws or practice, since the passage of the 1913 Native Land Act, could reclaim their land-holdings. The legal basis for this process was laid out in the Restitution of Land Rights Act, 22 of 1994 and a deadline for submitting claims was set at the end of 1998. About 80,000 claims were submitted by the deadline and about seventy percent of these have been settled. Many of these settled cases were for urban land and were settled through cash compensation rather than return of land. One report estimated that by the beginning of 2005, some 9,000 rural claims, involving millions of people, remained outstanding.¹⁹ Legal amendments to the legislative framework were introduced in 2005 to extend the timeframe for dealing with the outstanding claims and for easing some of the bureaucratic burden associated with the dealing with the claims. Nevertheless, the restitution component of the overall land reform programme is the least controversial, as it clearly and directly addresses the righting of the most obvious wrongs of apartheid, and has shown a fair degree of success in implementation. Cheryl Walker describes it as the “flagship of land reform.”²⁰

The land tenure component of the overall reform programme is widely seen as having experienced the least progress. The South Africa Bill of Rights within the democratic constitution includes an entitlement to security of tenure or “comparable redress” for those whose tenure is insecure as a result of past discrimination, and requires Parliament to enact legislation to provide appropriate measures.²¹ The passage of legislation to provide greater security of tenure to labour tenants on commercial farms was passed in 1996, though it is widely seen as not having created the desired increase in security of tenure, based on the high level of evictions that continue to be reported.

Legislation concerning land tenure in the former “homelands” has been very contentious within South Africa, with a number of Bills and repeated re-drafts of Bills having been tabled. Interim legislation to give some level of protection against sale of land by chiefs or initiation of projects without consultation of occupants was also passed and subsequently extended, while a more comprehensive legal framework was being developed. The key issue has remained the level of powers to be vested in “traditional leaders” in the allocation of land and the level of individualisation of tenure. In 2004, a Communal Land Rights Act (CLRA) was passed by Parliament.

The CLRA of 2004 involves the transfer of rights over land within the former “homelands” from the state to “communities.” In a critical review of the Act, Aninka Claassens demonstrates how the Act deems communities actually to be tribal authorities, originally established under apartheid-era legislation. The CLRA does allow for the registration of “old order rights” (those created by customary law or usage) as new formally registered rights, where demand for this exists within the “community.” However, the Act gives significant powers to the Minister of Land Affairs to determine both the boundaries of community landholdings and the power to define and register new order rights. Passage of this Act has been highly controversial and it

has been severely criticised by groups representing rural women because of the potential for the Act to erode the security of tenure of women, especially un-married women.²²

The constitutionality of the CLRA has been challenged, on the grounds that it undermines certain groups' property rights. Despite the criticisms, and the legal challenges the government's stated intention is to push for the full implementation of CLRA. In his state of the nation address in February 2007, President Thabo Mbeki reiterated the government's intention to start implementing the Act, a promise he later re-stated at the opening of the National House of Traditional Leaders. Interestingly, the justification for the implementation of the Act was stated as being "in order to improve the economic utilisation of communal lands."²³ Despite this stated intention, it is unclear when or how the CLRA will be implemented, not just because of the pending legal challenge but also because of the administrative hurdles and costs associated with the Act.

While the land tenure reform component of the overall South African land reform programme has been hotly debated within South Africa, as noted above it is the land redistribution component that has received most attention outside of South Africa, and was a major issue of debate in the dialogue and consultation leading up to the World Bank Policy Research Report. The original market-assisted land redistribution programme developed in South Africa, with active World Bank support, consisted of providing a grant to qualifying households. The Settlement/Land Acquisition Grant (SLAG) was a R15,000 grant (equivalent to the National Housing Subsidy available in urban areas) which was available to anyone with a monthly salary below R 1,500 and could be used to purchase land on a negotiated basis. The SLAG programme was clearly targeted at the poor, and some preliminary research indicated that it did successfully achieve this targeting of poor households.²⁴ However, progress to meeting the overall quantitative targets in terms of hectares of land transferred was extremely slow, with only some 200,000 hectares of land being transferred through the programme before it was more or less suspended to make way for a new programme.

This new programme, the Land Redistribution for Agricultural Development (LRAD), was introduced in response mainly to the very slow pace at which SLAG had been operating. Unlike SLAG, LRAD was targeted towards emergent black commercial farmers, not just the poorest households. LRAD uses a combination of state grants and commercial loan finance (calculated on a sliding scale). Opponents of LRAD suggested at its inception that it was an 'elitist programme' that would be inaccessible to the very poor.²⁵ It has led to an acceleration in the amounts of land redistributed, but the overall delivery of land through the redistribution component is still far behind schedule if the government is to meet its stated targets for land reform.

In 1994, the government set an extremely ambitious target for delivering land reform, with the target of redistributing thirty percent of land to African owners by 1999. There is a large degree of ambiguity about the actual target figure. Government statements seem to suggest that the target of thirty percent of commercial farm land in African ownership by 2014 will be delivered through all three forms of land reform. This is backed by the figures quoted in government reports and statements. This implies that if land tenure reform is successfully implemented in the thirteen percent of land in the former "homelands" and on other state-owned landholdings, this would be included as having contributed to the overall thirty percent

target. However, the same government statements tend to also say that the target is to transfer 30 percent of land owned by “commercial farmers.” The target tends to be stated in terms of land area transferred rather than the number of individuals receiving land.

DEBATES ABOUT “MARKET-ASSISTED LAND REFORM”

Opposition to the market-assisted land reform programme in South Africa has four major aspects: firstly, that it is too slow and South Africa has been unable to meet its own targets; secondly, that it is ethically and ideologically wrong to expect victims of apartheid to contribute financially to buying back land stolen from them (and in some cases by implication, not punishing white farmers for stealing the land); thirdly, the market-basis of the programme means that it will not assist the poorest members of society; and finally, that it is based on a global capitalist “De Soto” ideology of individual property rights, which by its very nature discriminates against the poor, marginal groups, women etc. A sub-text of these complaints is that the programmes are part of a global capitalist agenda of the World Bank to wipe out peasant farmers and promote large agri-business:

The World Bank is imposing a virtually identical set of policies on widely different countries, without regard for their unique histories, cultures, or patterns of land use. The policies focus on privatizing and individual titling to create markets in land, and in some countries include credit funds by which the poor acquire debts to purchase land from “willing sellers.”²⁶

These complaints were made vigorously by some civil society groups in the discussions surrounding the World Bank's Policy Research Report in 2002-3, and continue to be made by many groups both inside and outside South Africa. Less vocally, there has been a large degree of support from within the international development industry for the overall approach being taken by the South African government. The continued commitment to the rule of law and the constitutional protection of pre-1994 property rights is seen as a key strength in the South African programme and are often presented as a contrast to Zimbabwe.

The South African land reform programme has clearly failed to meet the quantitative targets set in 1994. Department of Land Affairs figures for 2005 (the latest available) show that a total of 3.1 million hectares have been transferred through the entire programme up until March 2005. This represents about 3.7 percent of commercial agriculture land.²⁷ The Department of Land Affairs notes that its delivery rate has been increasing by about ten percent per annum, but there is obviously going to have to be a step-change in delivery if the government targets are to be met: the Department of Land Affairs (DLA) talks of delivering 2.2 million hectares per annum by 2007.²⁸ At the time of writing, the DLA Annual Report for 2006 is not yet available on their website.

This obvious failure of the programme to meet its targets was highlighted by many of those opposed to the concept of market-assisted land reform. Ironically, political pressure to increase the rate of redistribution was a chief factor in the government's retreat from the strong pro-poor emphasis of SLAG and the move to encourage more “emergent black commercial farmers” under LRAD. The World Bank Policy Research Report acknowledged the slow pace of delivery

under SLAG and LRAD, and suggested that improvements could be made through greater “community-involvement” and involvement of the private-sector.

The political issues raised by market-based land reform (righting the historical wrong) are almost entirely ignored in the World Bank's Policy Research Report, yet this is a key element of the land reform debate in South Africa.²⁹ The political issues surrounding land in South Africa are obviously heightened by what has taken place in Zimbabwe. There is a consensus in most of the literature that “recent invasions of commercial farms in Zimbabwe highlight the urgent need for bold interventions to de-racialise the structure of commercial agriculture in South Africa.”³⁰ This issue is clearly at the forefront of South African government concerns. In 2001, Siphso Sibanda (DLA Director of Tenure Reform) contrasted the Zimbabwean and South African government's approach:

In South Africa too, land and land reform are unquestionably emotive issues, and matters related hereto need to be handled with circumspection and sensitivity by government. At the same time, government has taken firm control of the matter, to discourage and prevent a “tinderbox” situation similar to that now prevailing in Zimbabwe, occurring in South Africa. In this regard, the South African government has since 1994 been involved in designing and developing a land reform programme that aims to bring about a fair and equitable land dispensation in South Africa in an orderly and planned way.³¹

Dealing with the politics of land is a key issue for the South African government. The World Bank and the international development industry are not well placed to advise or assist on this issue, and there is little to be gained from debating this issue within the confines of the international development industry (as some of the peasant advocacy groups seem to demand). Political demands to increase the pace of land reform have been made increasingly vigorously by various civil society groups, most notably the Landless People's Movement (LPM), which has strong support from MST (Brazil) and the international anti-globalisation campaign.

Over the past two years, the South African government has made various statements suggesting that it could move more aggressively on land reform, including using its powers of expropriation to speed up the process of redistribution. There has been one widely reported recent case in which the government's right of expropriation has been utilised in order to resolve a dispute about the value of a parcel of land being re-distributed. It is not clear, however, how his right will be utilised in a programmatic manner to speed up delivery. In the meantime, the government continues to emphasise that it will act in a reasonable and responsible manner (though again it does not really say what this means in practice).

One of the frequent complaints by the critics of market-based land reform is that it favours better-off farmers and supports the development of global agri-business. There is a general and rather romantic rejection of individual title and private property that underlies much of this criticism. This has spawned a series of adverse reactions to the work of De Soto. The claim that the World Bank favours large over small farmers was heartily denied by World Bank officials during the consultation process to draft the land Policy Research Report. At the African regional consultation in Kampala (April-May 2002) Roger van den Brink, the World Bank's African region land policy advisor, emphasised that the World Bank policy was to support small-scale family farming and that indeed in many countries the World Bank only worked on rural projects that directly supported small-scale farming.

One of the key arguments that permeates the Policy Research Report is the idea that there are no economies of scale in most tropical agricultural systems. Rather, the argument goes, the productivity advantages of large farms have historically been created and sustained through deliberate land, labour, marketing, and subsidy interventions by governments, and that without these interventions small farm units would be more productive producers of agricultural products than large farms (on both a per hectare and per person basis). This idea is perhaps the key intellectual theme that runs through the World Bank's Policy Research Report and is used to justify land reform on an economic efficiency basis, rather than a political or equity basis.

This argument appears not to have been significantly debated by either the advocates or opponents of the market-assisted land reform process in southern Africa, where the greater efficiency of large scale commercial agriculture is generally assumed on the basis of the past record. Sam Moyo, writing on the Zimbabwe case argues that: "To date land policy in southern Africa has not fully taken on board mainstream agricultural economics debates. These have demonstrated through global case evidence that small-sized farms tend to use their land more productively, in terms of higher unit yields and the use of labour."³²

SOME CONCLUDING COMMENTS

The South African market assisted land reform programme has been much discussed in the international development industry. This in part reflects the important role that the World Bank played in developing the strategy, but perhaps just as importantly the continued high international profile enjoyed by South Africa and the domestic and international legitimacy enjoyed by the ANC/Alliance government (despite growing civil society opposition). The World Bank Country Strategy for South Africa emphasises the exchange of ideas as being a key component in the relationship:

For South Africa, gaining access to international expertise and knowledge is at least as important as providing financial capital, and the Bank has operated as a clearinghouse and sounding board for international experts and best practice. But functioning as a knowledge bank does not involve only the transfer of knowledge to South Africa - in many areas, we can learn as much *from* South Africa as they learn from us. For example, South African efforts to build a nation based on principles of *reconciliation* and *inclusion* provide invaluable insight into how we can better deal with post-conflict situations elsewhere in the world. Analytic and policy work in areas such as land reform and inter-governmental fiscal relations have provided important lessons for other client countries.³³

This is an unusual statement in a Country Strategy paper, reflecting the exceptional position enjoyed by South Africa in international development discussions. The goodwill around land reform that existed inside South Africa in the mid-1990s may have eroded to a situation that is now currently labelled as a crisis or impasse, but there needs to be a recognition both inside South Africa and amongst the global critics of market-assisted land reform that this is a long and difficult process, or in the words of Cheryl Walker "a slow rather lumbering process."³⁴ There are few examples of countries that have successfully redistributed large scale commercial farms to smaller farmers. As the World Bank Policy Research Report notes, successful examples of major land reform have tended to involve the transfer of ownership

from landlords to tenant farmers already occupying the land, rather than redistribution of large commercial farms where the labour is provided by workers.

Ideological positions that either reject or valorise individual titling and the land market are not going to be helpful in overcoming the current impasse. There needs to be an increasing recognition of the need for a mixture of different policies and programmes to deal with specific locations with different histories, economies, social settings, and political demands. In a recent article, Cheryl Walker sums up the current land reform debate thusly: "It focuses too narrowly on the so-called 'white countryside,' underplays the importance of urban land reform and the former reserves and underestimates the contemporary challenges of agriculture."³⁵ Similar sentiments have been expressed in the CDE report and in various contributions by Ben Cousins.

The wholesale rejection of individual titling and the demonisation of De Soto favoured by some anti-globalisation campaigners should not be allowed to drive the debate on land reform in South Africa. There are many interests in South Africa, such as the National African Farmers' Union who believe "freedom lies in an escape from the oppressions of the enforced 'communal' order of the past," and who will continue to push for individual titling of former "homelands" and state-owned property.³⁶ In peri-urban areas (the domain in which De Soto's ILD has tended to work most effectively) there are significant benefits to be gained through individual titling to help break the power of 'shacklords' allocating land in return for cash and warlords building a power base through control over land.

Furthermore, the valorisation of communal tenure has clear dangers, as we have seen with the Communal Land Registration Act of 2004. Concerned about the impacts of this legislation especially on un-married women, Claassens has argued for an approach that prioritises the recognition and strengthening of use or occupation rights by individuals and families, rather than communities (i.e. Tribal Authorities), with rights and administration cascading upwards from this level to higher decision making bodies (headmen, village councils etc.).³⁷ It may be worth noting that research from Kenya indicates that women have (on occasions) been able to counter men's claims to landholdings under customary tenure through the acquisition of land under registered title, in addition to making claims under certain customary practices.³⁸

There is some evidence that the land market has, without government assistance, also contributed to the redistribution of the racial basis to land ownership. One study in KwaZulu-Natal found that between 1997 and 2001 45,121ha of land were transferred to "previously disadvantaged groups" through the SLAG project. During the same period 36,148ha were transferred to previously disadvantaged groups through private mortgage loans; 24,118ha through private cash purchases; and 16,097ha through non-market private transfers (mainly bequests). On average, the land transferred without government assistance was of higher quality, reflected in the higher total land values transferred through non-government assisted routes (R174.3 million compared with R.36.9 through government-assisted programmes). There were a total of 905 private transactions to "previously disadvantaged groups" in this period, compared with eighty-nine through the SLAG project.³⁹

The land reform process needs to involve comprehensive legal reforms to make land transfers cheaper and more effective, especially reforms that will assist in market-based transfers of land to potential African farmers. The Subdivision of Agricultural Land Act of 1970 has prevented commercial farmers from dividing up their farms, or selling portions of farms to

new black commercial farmers. Legislation of this nature exists in many countries and is based on the concept that small parcel sizes will lead to less productive agriculture. As noted above this idea is now widely rejected within agricultural economics, especially for tropical crops. The repeal of this legislation needs to be enacted, but further reforms that make title registration easier and cheaper should also be implemented. These reforms, undertaken in many countries, typically involve changes to the way in which land surveying is regulated and in the manner in which land transactions are registered so as to take advantage of new technology. This is usually termed "land administration" in most of the literature.

The opponents of the World Bank approach to land policy have criticised the concentration on land administration in many Bank projects, involving the strengthening of registries, cadastres, and mapping functions (see for example "Statement Against World Bank Market-based Land Reform," April 2002). However, it is the weaknesses in these institutions that frequently led to failure of past land reform programmes (certainly in Latin America) and one of the key challenges for South Africa is overcoming these administrative barriers:

While the various factions in the land reform debate are off looking for painless or costless ways of speeding up land redistribution in South Africa, there is the increasing risk that the real obstacles to land reform will continue to be overlooked. Insufficient financial resources allocated to land reform programmes and inadequate administrative capacity devoted to implementation must eventually receive the attention they require.⁴⁰

The tendency to contrast fluid "customary" practices with rigid "private-property regimes" should also be resisted or at least questioned. Private-property regimes have always been able to take into account wider community interests (for example through assertions of common-use rights under English common law) and they have hardly been stable, uncontested, or unchanging as some commentators assert. In the Caribbean, unique and innovative property rights, such as family land, have evolved within the context of a private-property regime and without any formal legal recognition in statute. A nation-wide systematic title registration programme in St. Lucia has not led to an erosion in family land property rights and indeed could be considered to protect non-resident family members.⁴¹

Finally, as Walker emphasises, the South African land reform programme needs to take into account the changing reality of the agricultural sector. There has been a significant decrease in the number of large-scale commercial farms in South Africa, down from about 61,000 in 1996 to 45,818 in 2002.⁴² A total of 19,736 new black farmers have reportedly been resettled through LRAD since its inception in 2001 and some estimates put the total number of African commercial farmers at 90,000 (obviously mostly in the former "homelands").⁴³

The data indicates that while new small scale commercial farming units are being created through the land reform process, many large-scale commercial farmers have been leaving the agricultural sector. This indicates that, contrary to the World Bank's views on the efficiency advantages of small farms, there is a process of consolidation underway in the large commercial sector. One factor that has to be taken into account is the fact that while small farms may have efficiency advantages at the level of production, larger units have advantages at the all-important agricultural marketing level.

Data on the South African agricultural sector indicate that the value of agricultural exports as a percent of total exports has remained fairly constant at about seven to eight percent. There

has however been a shift in commodities, with intensive horticultural sectors now contributing more than the traditional extensive commodities such as mohair, wool and hides. The horticulture sector increased from twenty-two percent of the agricultural GDP to twenty-six percent over the 1990s. The horticultural sector, especially for export markets, relies upon extremely well integrated supply chains and the ability to deliver large quantities of high quality produce on a consistent basis. The broiler industry has shown the strongest growth out of all agricultural sub-sectors in South Africa and its share of agricultural GDP rose from 6.7 percent in 1980-81 to 12.6 percent in 2000-1.⁴⁴ This sector also relies upon extremely well integrated and responsive supply-chains.

This raises both a challenge and an opportunity for the land reform process and general agrarian transformation process in South Africa. It highlights the possibilities of contract farming or other linkages between smaller-scale producers and larger units with the scale to be able to negotiate in the international marketing arena. As noted in the CDE report, there are a number of examples of commercial farming associations or groups working with or through small-scale producer groups, including making land holdings available, to integrate supply chains and improve productivity. The land reform process needs to build on these existing private initiatives to try to create a new agricultural sector that meets both the realities of the market-place and the needs of the rural poor. A quote from Carter and Zimmerman, discussing land and agrarian reform in Latin America, would seem to be equally apt for South Africa:

The rigidities of the old antagonistic agrarian politics have been shaken by the events and reforms of the last two decades. There would thus seem to be the political space for new coalitions, built not around a blind faith in either free markets or their completion negation, but rather around a more refined understanding of the role that time, markets and ancillary policies can play in resolving the agrarian question.⁴⁵

As South Africa continues to grapple with the challenge of inequality in access to land resources, calls will continue to be made for the government to either support or reject “market-based” land re-distribution and “World Bank” or “De Soto” models of land reform. At the same time, the South African experience will continue to inform global debates about land reform. While the politics of South African land reform will be played out in various arenas at national and international levels, it is important to remember that actual access to land will be determined by a series of decisions, events and actions taken by individuals and groups at the local level, rather than by global ideological debates.

Notes:

1. The phrase “academic and professional” discussions on development is used as a convenient short-hand to indicate that research in the development studies sphere encompasses work within universities, within international development agencies, such as the World Bank or the United Nations system, private consultancy groups (often contracted by the international agencies), and international and local non-governmental organisations. There are frequent overlaps between these “networks of professionals” in and out of the academy and a wide literature on the nature and implications of these networks.

2. Lehman 1978.
3. Senn 1981 is perhaps his most influential work in this regard.
4. World Bank 2000.
5. Berry; Peters; Shipton and Gohenn.
6. See for example Lipton.
7. Vogelgesand.
8. Barnes.
9. De Soto.
10. Quoted on the ILD website: <http://www.ild.org.pe>
11. See ILD website for details: <http://www.ild.org.pe>
12. www.desotowatch.net
13. It should be noted that a World Bank PRR does not set out official Bank policy on a subject, but is designed to provide guidance, generate ideas and capture knowledge on particular issues which should be used in the design and implementation of World Bank projects.
14. I undertook one small consulting project, examining the total costs associated with regularising title in Trinidad & Tobago, as part of this process and was a participant and discussant at the Latin American & Caribbean Workshop, in Pachuca, Mexico, May 2002. See Driver.
15. Palmer.
16. Quoted in Palmer.
17. Binswanger and Deininger.
18. Levin.
19. CDE.
20. Walker.
21. Cousins.
22. Claassens.
23. Address of the President of South Africa, Thabo Mbeki, at the annual opening of the National House of Traditional Leaders: Houses of Parliament, Cape Town, 23 February 2007. Retrieved March 20, 2007 from: <http://www.thepresidency.gov.za/show.asp?type=sp&include=president/sp/2007/sp02231658.htm>
24. Deininger and May.
25. CDE.
26. FoodFirst.
27. Based on the figures in CDE.
28. Department of Land Affairs, Annual Report 2005 (April 2004-March 2005).
29. A point that I made in my commentary paper at the consultation in Pachuca, Mexico, see Driver.
30. Lyne and Darroch .
31. Sibanda.
32. Moyo.
33. World Bank, 1999: foreword.

34. Walker.
35. Walker: 823.
36. Cousins.
37. Claassens.
38. MacKenzie.
39. Lyne and Darroch.
40. Cousins.
41. Griffith-Charles.
42. Walker.
43. CDE.
44. Based on data in Fenyés and Meyer.
45. Carter and Zimmerman.

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Reference Style: The following is the suggested format for referencing this article: Thackwray Driver. "South African Land Reform and the Global Development Industry." *African Studies Quarterly* 9, no.4: [online] URL: <http://web.africa.ufl.edu/asq/v9/v9i4a5.htm>