

# South African Land Reform Strategy: A Panacea for Unlocking Developmental Debacles

**FKL Kgobe**

University of Limpopo, South Africa

**KI Makalela**

University of Mpumalanga, South Africa

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**Abstract:** The purpose of this paper is efficaciously to evaluate if land reform remains a pertinent a strategy for unlocking development in South African socio-economic realm. Pragmatically access to land habitually perpetuate and lead to explicit advancement for unlocking development in spheres of socio-economic conditions. The latter is lamented by the disillusioning acts of confiscation of South African land without remuneration. The South African land reform remains a lip-serviced subject of contention, notwithstanding the unsurpassed strides undertaken by the contemporary government regime through its wider legs of restitution, tenure reform and redistribution. Moreover, the wider legs of reform were explicitly found to serve as rudimentary within which progress towards unlocking developmental debacles can be measured. The paper is purely theoretical, it's a desktop study which relied heavily on the literature review to underpinned the argument. The paper takes cognizance of section 25 of the Constitution of the Republic of South Africa, 1996 to extract and expatiate the argument. The paper argues that the demise to development planning and practices is inextricably linked to inability of the government to operationalize land reform strategy. The land dispossession during the colonial era and the decades of apartheid regime rule produced an enormous unequal pattern of land ownership that served as impediments to development and unrelentingly perpetuated widespread rural poverty in South African communities.

**Keywords:** Land, Poverty, Perceptions, Government, Gradualism

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## 1. Introduction

The development literature edified that the most daunting and disillusioning developing countries phenomenon has always been access to an array of productive land. Land, particularly in South Africa, has been declared a primary focal asset for rustic advancement and human survival (Akinola, 2016). Continually, land reform strategy has conspicuously seen fit to address vast developing countries development debacles. After independence, South Africa set out on a land reform program that is intended to review the exceedingly unjust land proprietorship which came about because of Apartheid (Makombe, 2018). Despite more than two decades of implementation, land reform in South Africa remains a hotly contested terrain that is beset with numerous challenges and uncertainties (Chikozho, Makombe & Milondzo, 2019). The topic of landownership in a majority rule South Africa stays uncertain and emotive, amid obvious societal imbalances (Sebola & Tsheola, 2014). There is a genuine societal separation in regard to the most suitable way to deal with

settling the issue of landownership, with the limits of the big push and the gradualism (Edigheji, 2007; Ashton, 2014; Sebola & Tsheola, 2014). Land reform in South Africa remains a fervently challenged territory that is assailed with various difficulties and vulnerabilities (Chikozho *et al.*, 2019). Land, which is a focal asset and the essential primary recipe for rural development and financial flourishing, has turned into a subject of contention (Zarin & Bujang, 1994; Akinola, 2016).

Land particularly in South Africa is owned in the redistribution channels such as Communal Property Associations (CPAs) (Hall *et al.*, 2003; World Bank, 2006; Mkhize, 2014). The development literature lamented that appropriate execution of the land reform program decreases poverty, affords families to accumulate riches, and enables countries to satisfy their human rights commitments (Cavaliere, 2015). Implanting Land reform in the Constitution was no incident (Pienaar, 2015) since Section 25 of the Constitution of South Africa immensely accommodates land reform.

## 2. Theoretical Framework

The paper is argued from the gradualism as one of the methodologies for speeding up the transformation of land which resides on the sphere of social perceptions. It is based on the cognitive notion that "ask the poor to be patient" so that they get to transform perceptions on the significance and the use of land for productive purposes and agricultural productivity. Menager and Valente (2007) articulated that social perceptions are found to be the most critical factor in the transformation of the economy and establishing new social perceptions about land, so that the land may become productive. The most compelling evidence is that gradualism requires that enough time be allowed for the farmers or land beneficiaries to allow their social perceptions towards the redistributed land to be modified. Therefore, it is now clear those social perceptions are highly variable factors and they depend upon the following: the functional attributes of the physical environment (referred to as land), familiarity with the material products of the culture which embodies *inter alia* technology and technical skills and lastly the communication systems employed in the culture which gives pragmatic meaning to the ideas (Hall, 2009). Gradualism also has been declared as a slow pace for the redistribution of land in order to allow people on the ground an opportunity to transform their perceptions regarding the use and the significance of land (Kepe & Tessaro, 2014). It is clear from this paper that land redistribution without the transformation of people's perceptions could not entirely deal with the unprecedented incidences of poverty in South African communities

## 3. Conceptual Clarification of Land Reform: A South African Perspective

Land reform is a transient procedure that was left on in two unmistakable stages in South Africa: first by method for an exploratory program before the new established regulation initiated, trailed by, furthermore, a comprehensive program after April 1994 (Pienaar, 2015). Land is not only a divine or spiritual resource but also a socio-economic asset and status symbol (Anafo, 2015). It is pivotal to tolerate as a primary concern that there is no fixed meaning of land reform or no single definition that would do the trick in all conditions (Pienaar, 2015). The pursuit of land reforms, however, is surrounded by theoretical and conceptual positions

which posit methodological supremacy over each other (Anafo, 2015). According to Pienaar, (2015) land reform alludes to activities, encapsulated in authoritative, arrangement and different measures, comprising activities and instruments went for expanding access to land, improving security of tenure and reestablishing area or rights in land.

## 4. Land Reform Strategy: A Panacea for Developmental Problems

As indicated by Mendola & Simtowe, (2015) the reason for land reform is to build land access to poor rustic family units to lessen disparity and destitution. Land reforms programs intend to address imbalances brought about by various political frameworks everywhere throughout the world, redressing frontier asset misdistribution, social value, diminishing and controlling ecological debasement in minimal territories (Makombe, 2018). A definitive objective is to improve the employments of poor or potentially impeded people (Mendola & Simtowe, 2015). In South Africa the destinations of land reform are fourfold, to be specific; reviewing Apartheid treacheries, cultivating national compromise and soundness, supporting financial development, and easing destitution by improving family unit welfare (Republic of South Africa, 1997; Hart, 2012; Makombe, 2018). Program of land reform is an essential yet not adequate condition for important change of the employments of the families included (Chikozho *et al.*, 2018).

Access to land is a wellspring of natural capital, social maintainability and monetary sustenance (Akinola, 2016). Land reform aims to reverse skewed land distribution, which is the legacy of segregation and apartheid (Kepe & Tessaro, 2014). Numerous lawmakers and activists call for land change as the component to redress the disparity and the perpetual injustices in South Africa (Belinkie, 2015). Land reform is basic to South Africa's security, monetary advancement, and recuperating post-politically sanctioned racial segregation (Netshipale, Oosting, Raidimi, Mashiloane & de Boer, 2017). Land reform can make a discrete hop in the profitable abundance of poor specialists to empower them to open their undiscovered potential, and produce critical monetary additions (Keswell, & Carter, 2014). Land reform could convey speedier outcomes as the inversion of 'blackspot' expulsions through re-instatement of previous African title-holders or installment of money related remuneration (particularly in regard

of urban constrained evacuations) in lieu of such re-instatement (Leyshon, 2009). To address the unequal appropriation of land in the nation (Kloppers & Pienaar, 2014). Later reforms have focused on enhancing tenure security, commercialization of land rights and improving agricultural productivity (Kalabamu, 2019). Pienaar (2015) attested that Land reform has for the most part been utilized on a worldwide scale to accomplish two primary objectives to diminish poverty and to address net disparity. These general objectives are normally enhanced and bolstered by different objectives, including

- Promoting output, efficiency and growth in the agricultural sector;
- enhancement of the environment and environmental sustainability; and
- enabling peace and stability, in general.

Considering the above, it becomes clear that land reform exists to safeguard development and serves as a panacea to development debacles that people of South Africa find themselves in. For a colonised people the most essential value, because the most concrete, is first and foremost the land: the land which will bring them bread and, above all, dignity (Fanon, 1963; Jansen van Rensburg, 2013).

## 5. Conceptualization of Land Reform: Three Wider Legs

According to Government of South Africa (1997), Hart (2012), Aliber & Cousins (2013) & Makombe (2018), the South African land reform programme is conceptualized from the three wider legs, namely: land restitution, redistribution and tenure reform.

### 5.1 Land Restitution

Land restitution is rights-based and attainable through land claims and money remuneration (Sebola & Tsheola, 2014). Land restitution re-establishes land to blacks whose property was taken under politically sanctioned racial segregation enactment (Belinkie, 2015). Under the land claims activity, blacks are given back the property that was detracted from them under politically sanctioned racial segregation enactment, with the objective of correcting past wrongs and advancing equity and land proprietorship between the races. Restitution applies to both

rural and urban land claims (Belinkie, 2015). Land restitution includes the mediation of cases, with the gathering qualified for harms having the alternative of either land or money related remuneration (Belinkie, 2015). It exists to deal with the individuals who were landless, to some degree as a result of chances denied to them because of skin shading (Brown, 2015). Land restitution is an integral asset for significant country change and network improvement (Everingham & Jannecke, 2006). South African land restitution can be interpreted as developing through unexperienced pathways of office which reliant on a disparate rationale of exceptionality (Zenker, 2014). South African land restitution was commanded both by the Interim Constitution of the Republic of South Africa (Act 200 of 1993) and by the present Constitution of the Republic of South Africa (Act 108 of 1996) as an uncommon measure, putting the state under an obligation to review land dispossessions because of past racially oppressive laws or practices (Zenker, 2014).

### 5.2 Land Redistribution

Land redistribution includes people or communities applying for government to allow access to land through the willing-seller willing-buyer principles (Cousins 2013:3; Sebola & Tsheola, 2014). Land redistribution includes appropriate planning to increase the number of black landowners (Belinkie, 2015). The objective of the land redistribution program was to furnish blacks South Africans with access to farming area. Redistribution was one of the underlying objectives of the land reform program since it was as a rule maximally ready to advance financial equity and monetary improvement for the black community (Belinkie, 2015). Land redistribution intends to defeat racial lopsided characteristics in possession and access to arrive by exchanging land from individuals of European plummet (the minority) to recently hindered gatherings (the dominant part) for settlement and creation purposes (Netshipale *et al.*, 2017). The point of the land redistribution program was to reinforce the property privileges of people previously possessing the land and to give access to land to those recently denied of the privilege to be the proprietors of land (Kloppers & Pienaar, 2014).

### 5.3 Land Tenure Reform

Land tenure reform issues proprietorship rights to blacks, who have worked and lived on ranches

for a considerable length of time without verified rights (Belinkie, 2015). Land tenure reform aims to secure rights of those who are already occupying land with insecure occupation rights (Avhafunani, Simon, Edzisani, Majela, & Imke, 2017). The legislature planned land tenure reform to give proprietorship conceivable outcomes to black ranchers who had worked or had other authentic professes to white-possessed farmland. Land tenure is a composite of rules and socio-economic relations between people and land (Kalabamu, 2019). People looking for tenure had cases to the property dependent on years, some of the time returning ages, of chipping away at business cultivates, or dependent on living and dealing with mutual countries (Belinkie, 2015). Land tenure reform intends to verify privileges of the individuals who are as of now involving area with shaky occupation rights (Netshipale *et al.*, 2017). Land tenure security must be established to achieve efficient allocation of land among farm households and to promote investment in land improvement (Holden & Otsuka, 2014).

## 6. The South African Land Reform Deficiencies

According to Makhado (2012) land reform in South Africa is moderate, principally because of monetary, infrastructural and limit difficulties and it is obvious that the "willing seller willing buyer" rule has additionally turned out to be less powerful in accelerating land reform. Land reform program is not conveying exchanges of land at a productive pace (Vink & Kirsten, 2003). The "willing seller willing buyer" rule does not advance land reform but rather goes about as a hindrance instrument to restrain the pace for land redistribution (Makhado, 2012). Erasmus (2018) contended that it is because of ineptitude that land reform has been such a fiasco. The "*willing seller willing buyer*" principle further improves class society since individuals who can bear the cost of extravagant land are the individuals who are financially advantaged (Makhado, 2012). The real obstruction is having enactment administering land reform making no arrangement to consider recipients responsible for the benefits they get in these exchanges (Erasmus, 2018). The "willing seller willing buyer" rule is along these lines right now considered by individuals seized from their property as rude, considering that when they were removed from their land, they were not compensated (Makhado, 2012).

Land reform in South Africa has experienced a few transformations; regardless of this, the pace has been moderate, and government is by all accounts coming up short on thoughts on the most reasonable arrangements to actualize land redistribution and address recorded treacheries (Dlamini & Ogunnubi, 2018). "Willing seller willing buyer rule sets aside a long effort to arrange land cost with the present land proprietors" (Makhado, 2012). Sacred settlement and assurance of private property remains as an outlandish hindrance in the way of land redistribution in South Africa (Dlamini & Ogunnubi, 2018). The present approach instruments, including the eager willing seller willing buyer strategy, and different arrangements of Section 25 of the Constitution are preventing successful land reform" (Makinana, 2018). Land redistribution is stigmatized for being a poor purchaser of land with long postponements and vulnerabilities' that prompted proprietors, who had at first been eager to sell their territory, pulling back their offers (Dlamini & Ogunnubi, 2018). The least ambiguous finding was that "get to land has turned out to be progressively limited and unreliable (Peters, 2009). The substantial separations between the gathering's territory that had been bought by the Department of Land Affairs presently known as the bureau of Rural Development and Land Reform and their homes. Thus, these types of decisions disadvantage the poor more than the rich due to the difficulties the poor experience in accessing affordable transport (Bradstock, 2005). There is no political will to support the programmes that comes with land reform in a nutshell (Cloete, 1992).

## 7. Legal Framework Pertaining to the Governance of Land Reform

### 7.1 Communal Property Associations Act 28 of 1996

As indicated by Communal Property Associations Act 28 of 1996 it is a legitimate system that tries to empower communities to shape juristic people, to be known as public property relationship so as to gain, hold and oversee property on a premise consented to by individuals from a network as far as a composed constitution; and to accommodate matters associated therewith. The demonstration further expresses that "while it is attractive that distraught networks ought to have the capacity to set up fitting legitimate establishments through which they may get, hold and oversee property in like



manner". The Communal Property Association (CPA) Act of 1996 enabled impeded communities to obtain and oversee property all things considered and to record and enlist public rights quickly (Everingham & Jannecke, 2006). The CPA Act accommodates government enlistment of CPAs and government oversight to authorize the privileges of customary individuals (Center for Law and Society, 2015).

The CPA expected to enable communities to accomplish lodging, horticulture and social welfare, to distribute land rights by lion's share assent, and to co-work with state organizations or private elements (Everingham & Jannecke, 2006). Since the land reform program would include the exchange of land from the state and private landowners to black South Africans, a legitimate substance should have been made through which land reform recipients could secure, hold and oversee property (Center for Law and Society, 2015). The 1996 enactment contained no national norms by which privileges of enrollment and long term improvement choices were connected over all communities entering the field of land restitution (Everingham & Jannecke, 2006). The point of the land redistribution program was to fortify the property privileges of networks previously involving the land and to give access to land to those recently denied of the privilege to be the proprietors of land (Koppers & Pienaar, 2014). Communal types of land proprietorship stay reasonable alternatives for seized communities (Everingham & Jannecke, 2006). It set out to give secure title or practically identical change to a great many rural tenants, the individuals who live in the least fortunate pieces of our nation, as a rule ashore held for communities by assigned network pioneers, if not straightforwardly by the state (Mostert, 2011).

### **7.2 Extension of Security of Tenure Act 62 of 1997**

As indicated by Moolman, (2018) the reason for this Act is to work related to the Land Reform Act, 1996 (Act 3 of 1996, for example the Labor Tenants Act) and the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act 19 of 1998, for example the PIE Act) to guarantee security of living arrangement as one of the destinations of land reform. Since the presentation of tenure reform, complex strategies must be pursued to guarantee the legitimacy of any expulsion procedure being considered (Gootkin & Narshi, 2014). The fundamental motivation behind the Act is to

guarantee that individuals who live ashore that has a place with landowners in rural and peri-urban regions are ensured essential human rights, subject to sensible constraints (Roodt, 2007). The net impact of this enactment is that it limits ownership (Moolman, 2018). A center capacity of land law is to guarantee security of rights or interests in land (Mostert, 2011). It is trite that protected tenure and access to land are essential for monetary development and social advancement (Mostert, 2011). As indicated by Roodt, (2007) "ESTA was passed in the post-politically-sanctioned racial segregation period to encourage the long haul security of land tenure; to control the states of home on certain land; to manage the conditions on and conditions under which the privilege of individuals to live ashore might be ended; to direct the conditions and conditions under which individuals, whose privilege of living arrangement has been ended, might be ousted from land; and to accommodate related issues".

### **7.3 Land Reform (Labour Tenants) Act 2 of 1996**

The Act gives to labour occupants the privilege to gain property from a proprietor and accommodates the procurement of land and rights in land by them (Cowling, Hornby and Oettlé, 2017). The most vital part of the Act, notwithstanding, gives instruments by which labour tenants can obtain responsibility for that they are qualified for use and possess (Cowling *et al.*, 2017). The Land Reform (Labor Tenants) Act 1996 endeavors to give security to powerless labour occupants (Jacobs, 1998).

### **7.4 Restitution of Land Rights Act 22 of 1994**

The Restitution of Land Rights Act 22 of 1994 ('Restitution Act') makes a privilege to compensation for individuals seized of land rights after 19 June 1913 because of racially prejudicial laws and practices (Hall, 2003). Those seized, or their relatives, were qualified to submit claims against the state for reclamation of their territory rights or for remuneration (Section 10(1)). The Commission for the Restitution of Land Rights is in charge of giving post-settlement support, its job is as far as Section 15 of the Restitution of Land Rights Act 22 of 1994 confined to the assistance of the procedure (Van der Elst, 2007). The Act set up a Commission on the Restitution of Land Rights to drive the procedure of land restitution: to help individuals to make claims, to examine their legitimacy, to organize them, and

to get ready for settlement or mediation (Hall, 2003). As far as the Restitution Act a gathering that needs to get evenhanded review in this way needs to demonstrate that it is an individual or a community that was confiscated, of a privilege in property after 19 June 1913, which dispossession occurred because of racially prejudicial laws or practices (Du Plessis, 2017). Expressed that the Restitution of Land Rights Act 22 of 1994 ('Restitution Act') was not intended to just profit 'hindered' race groups (Mostert, 2006).

The Restitution Act predicted the issues that depending on oral and gossip proof may present in restitution cases, and consequently embedded section 30 into the Act. Section 30 of the Restitution Act assents for a deviation from the typical principles of proof. The court can "concede any proof, including oral proof, which it considers important and fitting to the issue being heard by it, regardless of whether such proof would be acceptable in some other official courtroom (Du Plessis, 2017). The transformation of land or a privilege in land in accordance with a case as far as the Restitution of Land Rights Act 22 of 1994 is multifaceted anyway It is both enthusiastic and institutional having genuine outcomes on a few dimensions (Van Wyk, 2010).

### **7.5 Constitution of the Republic of South Africa, 1996 Section 25**

Section 25(5) of the Constitution presented the second mainstay of land reform, which is ordinarily alluded to as the land redistribution program. Confiscation is a unique type of obtaining of possession whereby the state secures proprietorship without the assent of the past proprietor (Pienaar, 2015). As far as this section the state is under the sacred obligation to take "sensible administrative and different measures, inside its accessible assets, to cultivate conditions which empower natives to access land on a fair premise" (Kloppers & Pienaar, 2014). According to Koppers & Pienaar (2014) Land tenure security is tended to through area 25(6) of the Constitution which expresses that "An individual or community whose residency of land is lawfully unstable because of past racially unfair laws or practices is entitled, to the degree given by an Act of Parliament, either to tenure which is legitimately secure or to tantamount change" (Kloppers & Pienaar, 2014). In such manner section 25 accommodates the redistribution of land; the tenure reform program; and the restitution program (Pienaar, 2017). Area 25(7) of the Constitution

accommodates restitution on a basic level, however inside a statutory structure (Pienaar, 2017). The privilege to restitution of land rights was set up in Section 25(7) of the 1996 Constitution, which recommends that: "An individual or community seized of property after 19 June 1913 because of past racially prejudicial laws and practices is entitled, to the degree given by an Act of Parliament, either to compensation of that property or to impartial change" (Hall, 2003). Implanting land reform in the Constitution was no incident (Pienaar, 2015).

### **7.6 White Paper on Land Reform Policy 1997**

As indicated by the White Paper on Land Reform Policy (South Africa, 1997), it is visualized that land will be appropriated all the more evenhandedly, that poverty will be annihilated, and that the general nature of the recipients' lives will improve in a manageable manner, in both the medium and long haul (Van der Elst, 2007). So as to additionally address the issue of land reform, the White Paper on Land Policy, (1997) was discharged with the particular vision of setting up a land strategy which is simply, expands on compromise and solidness, adds to financial development and supports family welfare (Kloppers & Pienaar, 2014). Section 3 of the White Paper on Land Policy (South Africa 1997) recognizes the absence of compelling post-settlement support in the land reform program as an institutional deficiency that should be tended to (Van der Elst, 2007). With reference to redistribution, the White Paper expressed that: "the motivation behind the land redistribution program is to furnish the poor with access to land for private and productive uses, so as to improve their salary and personal satisfaction" (Kloppers & Pienaar, 2014).

## **8. Conclusion and Recommendations**

It can be deduced from the paper that the slow pace of land redistribution breaks the vital line of development in communities to address the socio-economic issues. It can further be said that the communal property associations seem to be effective in terms of awarding people access to land since it is characterized by concerted efforts of people who are acquiring land collectively. Mendola & Simtowe, (2015) argue that the purpose of land reform is to increase land access to poor rural households to reduce inequality and poverty because, as they argue, for many developing countries, land is a critical component of wealth and its creation. Land

reform programmes aim to correct inequalities caused by different political systems all over the world, correcting colonial resource misdistribution, social equity, reducing and controlling environmental degradation in marginal areas (Makombe, 2018).

Land reform thus represents popular hopes in poor countries: that average people, too, may have access to their homeland's patrimony (Cavaliere, 2015). Therefore, as a remedy the paper recommends that the central government should clarify the terms of reference for land reform since the country is awaiting passing of the amendment bill of the property clause section 25 of the constitution. It is further recommended that Land Reform be treated as a priority and as such its roles within the expropriation of the South African land without compensation must be explicitly articulated and specified in the relevant legislation. The department of Rural Development and Land Reform should be well equipped to can fully implement the Land reform programmes in the advent of the Expropriation of South African land without compensation for equal distribution. The paper further recommends that the land reform process should not be in the hands of the politicians and that the willing seller willing buyer principle be scrapped out as it is not an effective strategy for addressing the imbalances of the past as it perpetuates inequality in terms of access to land. Land reform policies and legal frameworks must be revised.

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