

EQUITY AND EFFICIENCY – NONE SHALL BE IGNORED

Last month it was 100 years since the Land Act of 1913 came into force on the 19th of June 2013. This act, its younger sibling the Land Act of 1936 and its much older siblings, legislation passed in the Cape Colony and Free State in the 1890s, moulded current South Africa in the most profound way. Although 1913 stands out, it was by no means the only legislation affecting access to land. We are talking about laws and practices introduced over at least half a century. It was not a one-off event but an extended process.

Even so, the 1913 Act was by far the most important single moment in that process. To get a sense of what was set in motion with that Act of Parliament, let us look at the numbers. In 1913 black people occupied 17.8 million morgen in all four provinces in South Africa. The 1913 Land Act demarcated only 10.4 million morgen for them, stipulating that a commission would be appointed to come up with a final delineation of land reserved for whites and blacks respectively. The Beaumont Commission reported in 1916, but political manoeuvring meant that Parliament only acted on their recommendations 23 years later. The 1936 Act demarcated another 8.3 million morgen for Black occupation. In total, that was 5% more than the land they had occupied in 1913... but by now the Black population had increased by 46%!!

Looking at these numbers, over-crowding and forced relocations later in our history, to name but two consequences, should come as no surprise.

SHAPING MODERN SA

The cumulative effect of this long process changed the very fabric of South African society. It skewed land ownership deeply; it destroyed an emerging class of black commercial farmers; it undermined the social and financial development of people; and it disregarded completely the property and contractual rights of Africans.

These consequences are still with us today. Part of the constitutional settlement of the 1990s was an undertaking to attend to these consequences as a nation, and not just sweep them under the carpet. Ignoring history, as some people want to, is not an option. We have contracted at Codesa to deal with the land legacy through processes of land restitution and land reform.

SO 19 YEARS AFTER 1994, WHERE ARE WE NOW?

In order to get a clear picture, we need to keep the two elements of that contractual deal apart. Restitution is about compensation for land that individual people lost as a result of race-based laws. Land reform and redistribution is an attempt to rebalance the badly skewed profile of land ownership in South Africa.

Restitution

Nearly 80 000* land claims were lodged by the cut-off date of 31 December 1998. Since then, more than 95% of those claims have been settled and 88% finalised, i.e. monies were paid out as compensation or land was bought and transferred to successful claimants. The cost to the taxpayer over 19 years was R16 billion.

More than 80% of the total number of claims was settled by paying financial compensation to claimants. That cost R6 billion. A further R10 billion was spent to buy 1.44 million ha for transfer to successful claimants.

The fact that more than 80% of the claims were settled through monetary compensation meant that restitution did not change racial ownership as much as was hoped. Rather than land, people got money.

Different people interpret this differently. Some say it proves that there is no strong desire to have land. The Minister of Land Affairs says, "This is a reflection of enduring poverty, unemployment, and income poverty in the historically disadvantaged community." A third explanation is that in many cases

it was just not feasible or possible to hand back land to beneficiaries. You can choose the explanation that suits you. It was probably a combination of all three reasons.

It is interesting to note that Zimbabwe never had a restitution programme. "The government took a strong stance that all land is for all Zimbabweans, and it is broad historical injustices that are being rectified through land reform, not particular claims." The consequences of that approach became clear two decades later with the land grabs.

Redistribution

Moving on to the second leg of the South African approach, let's look at redistribution.

To date, government has spent nearly R13 billion under this budget provision to buy 4.1 million ha for distribution to beneficiaries. A further R2.4 billion, also from monies earmarked for redistribution, has been spent to recapitalise transferred farms that had fallen into disrepair. A total therefore of R15.4 billion.

Again, the comparison with Zimbabwe is instructive. That country started with a strong land reform programme after independence. It petered out by the middle eighties and came to a standstill by the early nineties. Then in 2000 all hell broke loose. Better to release the pressure than to let it build up.

Results

In summary, a total of R31.4 billion has been spent. 5.5 million ha was acquired for beneficiaries, either as restitution or in the process of redistribution.

Most of the farms so acquired have fallen into disrepair and are not productive. The Minister of Land Affairs has stated that 90% of farms have become unproductive. More money now needs to be spent to get these farms going again.

WHAT DID SA GET OUT OF THIS PROCESS?

Firstly, in dealing with the land claims, citizens who had been deprived of their rights and dispossessed have seen the law and democracy at work to acknowledge those rights and effect some restitution. History was dealt with, not just swept under the carpet. That process now continues. After lots of lobbying, government has proposed that the cut-off date of 1913, as agreed at Codesa and as contained in Section 25 of the Constitution, be amended to enable recognition of the claims of the Khoi and San, who lost their land before that date.

Secondly, we bought time so that the country could go through an important learning curve: land is not the only thing needed for successful farming. Working capital, specific skills, strong farming support and so on are also important. Furthermore, we need a strong farming sector in order to have food security. The bottom line: it is not enough to attend to equity, efficiency also counts.

In his recent budget vote speech the Minister of Land Affairs put more emphasis on development and sustainability than on progress with land redistribution. In fact, he said that the strategic objective of land reform is that "all land reform farms should be 100% productive by the year 2015/16; and to rekindle the class of black commercial farmers which was destroyed by the Native Land Act of 1913." (my emphasis)

ANC stalwart Pallo Jordan writes, "...we need creative solutions that will compensate communities for past injustices and make economic sense." (my emphasis)

Both make the same point, equity AND efficiency.

Travelling on this learning curve is a classic case of collective unlearning and learning anew. South Africans, including the ruling party, had to move away from an exclusive focus on redressing the wrongs of the past by getting land into black hands, to an acceptance that food security and sustainability of farms are also important. Such a fundamental shift is not easy, nor has everyone

been convinced, but it is happening. White South Africans, including many in the opposition parties, have to move away from the idea that efficiency trumps equity.

Would we have got to this middle position if we did not have the experiences of the last 19 years? I strongly doubt it. The R31.4 billion did not just buy 5.5 million ha. More importantly, it bought us the time to develop a different perspective. It bought the shift from equity only, to equity and efficiency; and likewise the shift from efficiency only, to equity and efficiency. Measured against that, the price of R31.4 billion was a real bargain.

EFFICIENCY OF THE SA FARMING SECTOR

Has the price of 5.5 million ha that are now largely lying fallow been too high? Have we crippled our farming sector in the process?

Compared to the beginning of the nineties, before agriculture was deregulated, South Africa now has roughly half the number of commercial farmers - about 35 000 now as opposed to 66 000 then. Over more or less the same period we have seen 5.5 million ha bought for restitution and redistribution, 90% of which has fallen into disrepair.

Many people look at these numbers and predict disaster.

Yet, and this is an astonishing number, South Africa's farmers produced 29% more in 2012 than they did in 1994. How's that for efficiency?

SA is lucky to have the farmers it has. They are amongst the best in the world. Their efficiency has created the space for us to work at restoring equity. Productivity today helps to pay for the inequity of yesterday.

Again, the comparison with Zimbabwe is instructive. In 2012 agricultural production in Zimbabwe was only about 50% to 55% of what it had been before the 2000 land grabs. Some products, like tobacco, were higher than that average at about 70% of pre-grab levels. That is certainly much better than the low of 30% or 40% that tobacco production had fallen to after the land grabs, but it is still much lower than before the land invasions.

In the tension between equity and efficiency, Zimbabweans made a different choice. They chose equity above all, settling for a huge loss in production. They also settled for huge collateral damage on the rest of the economy – millions are poorer and hungrier than they were. At 29% more production SA has certainly chosen a different route.

EQUITY VS EFFICIENCY

Some regard the lower production in Zimbabwe as a worthwhile price to pay, because equity was restored. In SA, on the other hand, some argue that land reform should only be contemplated if every single farm transferred will remain efficient and productive. That, unfortunately, is wishful thinking.

A very high proportion of new farmers that start out go out of business. Someone involved in establishing farmers in Mozambique told me "80% of them" failed. The almost 50% reduction in the number of farmers in SA attest to the same thing. A farmer friend who has links with German farmers report that 200 farmers in a valley in Germany stopped farming. Farming successfully is hard. To want a 100% success rate from land redistribution farmers is simply unrealistic. To stop addressing the problem of equity till that has happened is to endanger our future in a different way.

Partnerships, mentor programmes, rental agreements between black owners and existing white farmers are all models which can be used to work towards equity while maintaining efficiency. In many places, this is happening already. If, a hundred years after the 1913 Act, attention and resources can swing that way, we have a chance to put the history of those hundred years behind us.

SO WHAT?

There is a definite shift from equity to efficiency in official thinking on land in SA. SA's best route is to remain pragmatic: address equity, work on efficiency as much as possible, accept that there will be production losses but not fatally so; and do not become ideologically rigid on either efficiency or equity. Then we deal with yesterday, we survive today and we will have food tomorrow. A hundred years after the Land Act it seems to me SA is striking precisely that healthy balance.

* All numbers rounded off