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### **Latest land reform proposals based on the wrong premise of departure**

Land reform is not a uniquely South African invention. Several countries around the world have undertaken land reform programmes for one purpose or another. Several Latin American countries embarked on a process to break a system of rent-seeking by land barons whilst several Asian countries undertook programmes to promote small-holder farming and reduce income inequality. Without going into the pros and cons of this approach, suffice to say that their land reform initiatives were motivated by socio-economic considerations. Other countries chose to initiate programmes as a means to effect social justice for injuries inflicted during times of great upheaval such as war or colonialism. Germany and a number of eastern European countries undertook land reform following years of life behind the iron curtain. Similarly, Australia and Canada took actions on the basis of aboriginal title in an attempt to repair some of the damages inflicted during colonial times. Unlike the Latin American and Asian countries cited, this latter grouping undertook land reform for purely socio-political reasons, not economic reasons. Given South Africa's past of racially-motivated land relations, it should be clear to all that South Africa falls within the latter category as our land reform programme is premised on socio-political reasons. However, a closer inspection of the most recent policy developments premised on socio-economic arguments seem to blur the lines somewhat.

South Africa's land reform mandate comes directly from sections 25 (5), (6) and (7) of the Constitution. Subsection (5) places an obligation on the state to foster conditions whereby citizens can gain access to land on an equitable basis; Subsection (6) gives the right to individuals or communities who were dispossessed of a right in land after 1913 as a result of racial discrimination to have the land restored or for alternative compensation; finally, Subsection (7) states that all persons living under legally insecure tenure have the right to tenure which is legally secure. Directly or indirectly all three of these provisions are clearly aimed at addressing injustices caused by the Apartheid and colonial regimes. Be it redress for dispossessions or redressing the situation where only certain segments of the population were legally entitled to hold rights in land, the purpose is clear: Restorative justice.

Be that as it may, government land reform policies have recently shifted away from its core purpose of restorative justice and moved towards a strange pre-occupation with the creation of smallholder

farmers, a form of agrarian reform. The Green Paper on Land Reform,<sup>1</sup> cites the strategy of the Department of Rural Development and Land Reform (DRDLR) to be;

*“Agrarian Transformation’ – interpreted to denote ‘a rapid and fundamental change in the relations (systems and patterns of ownership and control) of land, livestock, cropping and community.’”*

Flowing from the Green Paper, the DRDLR recently published the Regulation of Agricultural Land Holdings Bill which explicitly aims to limit the extent of land that a person can own. The Bill’s purpose is said to be land redistribution yet reference is made to the average farm sizes in foreign countries in the policy document,<sup>2</sup> which raises questions as to whether the Bill aims to achieve land reform for restorative justice as envisioned by the Constitution or whether the aim is actually to create smaller farms in South Africa as an aim in its own right? Further examples of this confusion can be found in the one-household, one-hectare policy as well as the creation of Agri-Parks, whereby the DRDLR has had to move funding away from land reform.

Where land reform results in agricultural land being transferred to beneficiaries, it is in the best interests of national food security that they be supported to keep the land in production. Likewise, it will also be in the best interests of the beneficiaries if they are empowered to use the land as a springboard to entrepreneurship and wealth creation. Restorative justice should rightly be coupled with economic empowerment; however, this still does not explain the state’s preoccupation with the creation of small holder farmers through land reform. Small holder farmers may have an important role to play in the agricultural sector such as improving household food security. However, it is a fallacy to equate this aim with the purpose of land reform as articulated in the constitution. Whilst the economic effects of land reform are import, the premise of land reform in South Africa is socio-political in nature, not socio-economic.

Ultimately, the best way to achieve the ideals set out in section 25 of the Constitution will be to increase ownership rights amongst those entitled to benefit from land reform and to give legal recognition to those whose tenure rights are not legally secure.

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*Disclaimer: Everything has been done to ensure the accuracy of this information, however, Agbiz takes no responsibility for any losses or damage incurred due to the usage of this information*

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<sup>1</sup> Green Paper on Land Reform. 2011. Department of Rural Development and Land Reform. Accessed online at < [http://www.gov.za/sites/www.gov.za/files/land\\_reform\\_green\\_paper.pdf](http://www.gov.za/sites/www.gov.za/files/land_reform_green_paper.pdf)> Accessed on the 10<sup>th</sup> of April 2017.

<sup>2</sup> Regulation of Agricultural Land Holdings Policy Framework. 2013. Department of Rural Development and Land Reform. Accessed at < <http://www.ruraldevelopment.gov.za/legislation-and-policies/file/2052-agricultural-landing-policy-framework>> Accessed on the 10<sup>th</sup> of April 2017

