Restitution Commission looking for new settlement models

On the 5th of August, the Commission on the Restitution of Land Rights invited Agbiz and several of its members to a half-day consultation session on new settlement models for land restitution. Whilst there is a lot of work currently being done in parallel on the Agricultural and Agro-processing Master Plan, the Comprehensive Producer Development Support Policy and Blended Finance models for agricultural development and land redistribution, it is heartening to see that land restitution is not being left behind.

Due to historical trends of dispossession, land restitution has been the vehicle by which land reform is affected in many of South Africa's most arable and fertile areas. The land restitution programme is rights-based and linked to specific instances of land dispossession that took place after 1913. Many of the most fertile and arable areas in modern-day Kwazulu-Natal, the Limpopo province and Mpumalanga were settled by communities but subsequently dispossessed for their rich natural resources. As a result, many of these areas have been the focal point for the land restitution programme in the new dispensation. Sadly, many of the claims that were settled have been characterised by a collapse in the farming operations post-transfer due to a combination of poor governance, a shortage of skills and little or no access to finance.

Whilst the Commission on the Restitution of Land Rights is technically not responsible post-transfer, it has often exceeded its mandate and continued to offer financial support to communities after a claim has been settled. Notwithstanding, many of these farms have fallen out of production and end up taking scare financial resources away from the Commission's core function (research and land acquisition) as funds are directed towards supporting claimant communities. The Commission is furthermore a statutory institution with a specific role and does not have the requisite expertise to assist claimants with agricultural ventures post-transfer. It is for this reason that the Commission is now looking to partner with credible institutions in the sector to develop sector-specific settlement models that will promote continuity in agricultural production through a variety of public-private-partnership approaches.

A variety of settlement models have already been tested in the past 25 years with mixed results. Whole-sale transfers with a 'clean-break' has often led to a decline in production as newly created communities may lack the requisite skills, finance and market-linkages to take over business operations. Some success has been achieved when the previous owner has been appointed as a mentor but many have also failed with accusations of power imbalances and gate-keeping by the previous owners prevalent. Lease-back schemes in favour of the previous owner often provide continuity in production but can restrict the community's access to the land and its natural resources. Many of these communities have grown frustrated with these arrangements where they are not adequately involved in the operations of the farm.

During the consultation, participants shared their collective experience in favour of workable solutions. The most telling feature was that many of the existing models can be successful with a number of minor adjustments. For example, the concept of mentorship is sound but the mentor need not be the former owner. Many successful farmers have the heart and mind

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to act as mentors whilst agribusinesses and commodity organisations have employed specialised staff to provide these services. Crucially, these parties have no vested interest in the property other than to see the new entrants succeed. To take matters a step further, joint ventures were listed as the preferred vehicle as both parties have 'skin in the game' opposed to a mentor who is paid for his services. It is believed that this will act as an incentive to make a success of the venture. Finally, lease-back options may be the most viable settlement model where long-term investments have been made into the standing crop, as is the case with forestry and horticulture. In these instances, a lease-back agreement may be required until such time as the investment into the crop can be realised. Once again, the devil is in the detail and a critical success factor may be to structure the lease so as to ensure that the claimants receive continuous benefit from lease payments until such time as the investment can be realized. Failure to account for this may once again lead to frustration as expectations are not met.

Whilst it is always a pleasure listening to seasoned experts on these matters, much has been written about these models and the knowledge shared is not new. What is encouraging though was the commitment shown by all parties from the private sector and the state to foster closer cooperation and work together in the implementation of these models.