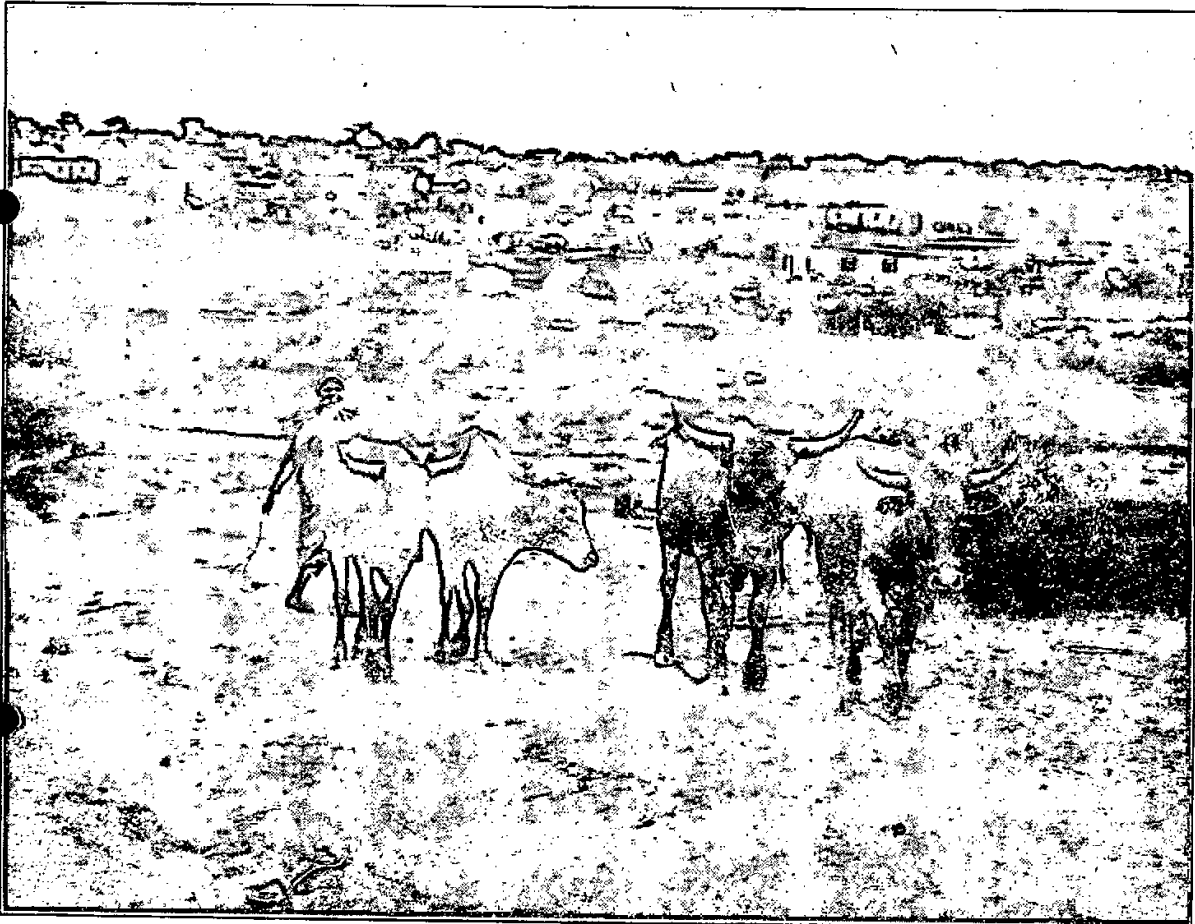


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LAND REFORM: BEYOND THE PILOTS



Photograph: Gille de Vlieg

The Reconstruction and Development Programme (RDP) originally aimed to redistribute 30% of agricultural land in South Africa, by the year 1999. The Land Reform Pilot Programme is the first phase of this redistribution initiative.

In March 1997, the Land Reform Pilot Programme (LRPP) will come to an end. This newsletter focuses on how the LRPP has performed in Mpumalanga and North-West Provinces, and discusses what can be learnt from the Pilot process.

With this issue: 1997 subscriptions form, plus Readership Survey

1) The Pilots in theory

Unlike other RDP programmes, the Land Reform Pilot Programme (LRPP) was not intended to result in mass delivery. This is partly because of the complexity of land reform and the need to acquire local experience before moving to full-scale redistribution, and partly because budgetary constraints do not allow for full-scale delivery.

The LRPP was initially intended to encompass all the land reform approaches, and come up with lessons which would have a beneficial effect on policy and processes throughout the land reform programme as a whole.

The pilot projects now under way in specific districts of each of South Africa's nine provinces, were intended to serve as test sites, to identify what does or does not work with regard to financing, service delivery, and administration.

The Pilot Programme emphasises regional, district and local control over the land reform process, rather than a top-down approach by central government. It therefore depends on close co-operation between government departments at both provincial and local level.

Substantial resources have been put into the pilots (a total of R315,81 million nationally). This initial concentration of resources also affects the validity of the test-results, since this level of input may not be repeated elsewhere.

The concentration of resources means that there has been considerable political pressure to include areas which are relatively well-organised (often

as a result of long-standing NGO involvement). This means that the poorest and most disadvantaged sectors of rural society have been ignored, and raises questions regarding the validity of any lessons that may emerge.

2) The Pilots in practice

Unfortunately, the LRPP has failed to achieve the diversity of approaches which were intended. Instead, it has tended to produce a uniformity of projects. This seriously inhibits its usefulness as a test of what may or may not work.

The most disadvantaged sectors of rural society have again been ignored

Another major shortcoming, is the institutional confusion which has characterised the Pilots.

Institutional confusion

Land reform is the responsibility of central government, and is managed by the national Department of Land Affairs (DLA). At a provincial level, land reform is implemented through regional DLA offices. The LRPP, however, is the responsibility of the provincial department dealing with land matters.

In different provinces, the LRPP falls under different government departments. In North-West, for example, it falls under the Department of Agriculture and Environmental Affairs, while

in Mpumalanga it falls under the Department of Local Government, Housing, and Land Administration.

In the absence of a national directive governing relations between provincial departments and DLA regional structures, people have had to work it out themselves, with varying degrees of success.

The most important LRPP structure at provincial level is the Provincial Steering Committee (PSC), which has been responsible for implementing and monitoring the Pilots. The PSC makes recommendations, which are then ratified or discarded by the provincial cabinet.

The PSCs have been mainly comprised of representatives from each of the provincial departments involved in land reform. Inconsistent and lower-ranking representation of certain provincial departments has seriously undermined effective decision-making.

LRPP institutions that have been established at the district level are an elected District Forum (made up of community representatives), and a District Office (staffed by contract workers and officials from the provincial departments) to administer the work. Communication between the District Office and the provincial department has been weak, and tensions have sometimes arisen between the District Office and DLA Regional structures.

The District Forum is the point at which the PSC meets representatives of local community structures (such as the Reconstruction and Development Committees, if they exist).

Women in the Land Reform Pilot Programme

The Land Reform Pilot Programme explicitly aims "to enhance the material, political and social status of women." However this policy commitment is not being realised in practice. Problems of integrating gender equality have emerged at three interconnected levels: institutional, technical and political.

Women are inadequately represented on all of the institutional structures created to implement the pilot programme. Where represented, women frequently lack the capacity to participate effectively.

In North-West Province, the profile of beneficiary communities is skewed in favour of those which are NGO and government supported. Clear guidelines and procedures for the selection of beneficiaries at a community level have been absent. It is, therefore, unlikely that the poorest, particularly women-headed households, will gain maximum benefit.

The household has been identified as the unit for implementation of the land acquisition subsidy. This targeting arrangement raises important concerns regarding whether all household members will enjoy these benefits equally.

Planning and implementation of the pilot programme in both the North-West and Mpumalanga has been fragmented and uncoordinated. Where development strategies are not integrated they often tend to exclude rural women, whose time is consumed by a range of survival strategies.

The District Forum also sends two representatives to the PSC. In both Mpumalanga and North-West, there are serious concerns regarding the representivity and the capacity of the District Forum.

The establishment of the PSC has had the positive effect of co-ordinating the activities of some government departments in the province. However government co-ordination should be taking place anyway, and should not need the Land Reform Pilot Programme as stimulus.

Meanwhile, provincial departments continue to draw up their own individual plans and budgets, in isolation from the

Moreover, gender-inclusive and supportive processes pursued at one level may be undermined or disrupted at another where development activities are not coordinated.

These are some of the general issues which inhibit the effective translation of gender policies into practice:

- the absence of guidelines and practical methodologies for policy implementation;
- the shortage of land reform and development practitioners with an understanding of gender issues;
- the tendency for gender issues to be peripheralised, or outright antagonism to gender policies; and
- rigid bureaucratic departmental procedures, which inhibit the use of innovative and participatory approaches.

It is significant that the Institutional Review of the LRPP commissioned by the Department of Land Affairs has failed to integrate a gender analysis.

The pilot programme represented an enviable opportunity to formulate, implement and test policies, implementation procedures and administrative systems which could give effect to the DLA's policy commitment to enhance the status of women. Instead the study itself further marginalises rural women in the land reform programme.

LRPP. There is therefore often a disjuncture between departmental plans and budgets, and the need for co-ordinated activities around land reform.

Finally, the lines of authority and responsibility between the different tiers of government and between different government departments, have become highly complex, resulting in either duplication of work or massive gaps.

The resolution of this institutional chaos can only be achieved through a careful analysis of the process to date. Bringing in specialists to do this, could be problematic given the politicised nature of the land issue.

Beneficiary Participation

On the whole, the participation of rural communities in the LRPP has been extremely limited.

An inadequate communication strategy and a rapidly changing legislative framework, have ensured that civil society remains in the dark about land reform. A weak civil society contributes towards this problem.

The establishment of the District Forum has itself been problematic. This structure is made up of representatives from geographically-defined RDP structures, as well as some sectoral interests (such as

Problems at local level

District Forum (and District Forum Management Committee) meetings are taking place without adequate support and training on the role of committees, chairing and minuting skills, and in the absence of clear reporting back procedures.

Business plans have been formulated on behalf of communities, instead of people doing this themselves. It would be more appropriate to take the time to train people to enable them to formulate their own business plans.

The selection of planning agencies (district and project planners) has taken place without any consultation regarding the right of communities to choose planners, and in the absence of clear selection criteria.

Criteria and processes for selecting beneficiaries have still not been established with community representatives; it is implied that this issue will be resolved during the district planning.

the Rural Women's Movement, local land-claiming committees, farmworkers and labour tenants).

The purpose of the District Forum is to provide a community perspective in decision-making, in monitoring the implementation of the programme, and in building capacity to facilitate community participation in broader development processes.

The establishment of democratically-elected structures at community level is crucial. However, the viability of the more than thirty Community Reconstruction and Development Committees (CRDCs) which were set up in Groblersdal in the space of only two months (for

example) is questionable. Since the CRDCs form the building blocks of the District Forum, this hasty process of establishment has had implications for the effective functioning of the District Forum.

Finally, the tension that has come to exist between provincial and national government (wanting to fast-track the Land Reform Programme), and the lengthy process required for thorough community participation, is beginning to come to the fore.

This tension is likely to become more and more evident as the implementation stages are reached.

Questions of sustainability

Through the Land Reform Pilot Programme an approach to development has inadvertently come into being, expressing this

A lack of "ownership" of projects at local level is likely to have long-term repercussions

tension between "fast-track" delivery and participatory approaches. This involves a top-down approach to development (which is contrary to what the RDP envisages), with people being denied the technical capacity to effectively participate. This is likely to have serious long-term repercussions, since there is little or no "ownership" of projects at local level.

The DLA white paper on land reform fails to put any meaningful content to the term "sustainability". The Environment Green Paper, on the other hand, fails to mention land reform. Concerns regarding the long-term effects of land reform initiatives have therefore disappeared into the gap between these two policy documents.

There is a difference in approach between urban and rural development processes. Application of the housing grant (mostly urban) and the settlement grant (mostly rural) for example, are divergent.

While the housing and settlement grants are of an equivalent amount, recorded on the same central data system, and subject to the same access criteria, rural land needs to be bought and held communally (mostly to make it affordable, but also through the desire to hold land communally).

The envisaged land-holding institutions force rural people to confront their value systems with regard to, for example, traditional authorities and gender issues. The reality of rural organisation, capacity and skills seems to have been completely overlooked.

Monitoring & Evaluation

Inadequate monitoring and evaluation has seriously inhibited the potential to learn from the Pilots.

The first DLA Monitoring and Evaluation (M&E) reports were released in September 1996. The Mpumalanga report is under dispute as it contains many content errors as well as what some government officials see as false accusations.

The M&E approach itself has been fundamentally flawed; it has typically involved a planner coming into the district from Pretoria, sampling only certain things, and then going back to Pretoria to write the report. It would be much more useful if this was a cyclical process with the M&E person being a part of the "team" rather than an external watchdog.

3) Lessons for land reform

Unrealistic assumptions were made regarding DLA capacity, and consequently, the DLA took on huge tasks, which proved ultimately impossible (in terms of both person-power and skills). An element of realism is now being introduced.

At the same time, it is hoped that the employment of consultants may introduce an element of professionalism into the process.

In September 1996 an Institutional Review of the LRPP took place, commissioned by the DLA. The recommendations are mostly obvious and make reference to the conflicting roles of the provincial department responsible for land reform and the regional DLA office.

The Institutional Review recommends the upgrading of regional DLA directors' posts, and the absorption of the LRPP District Offices into local government structures wherever possible.

The LRPP will officially be brought to an end in March 1997. It is not clear how long a transition period will be required to ensure that the implementation of land reform continues after the closure of the LRPP.

Restitution and Tenure in the LRPP

The LRPP was originally intended to test all aspects of land reform. Each Pilot District was supposed to include a number of restitution cases. However, with the establishment of the Commission on Restitution of Land Rights (CRLR) in May 1995, restitution was seen to fall outside the scope of the LRPP. Parallel structures are now also being established with regard to tenure (the "third leg" of the government's land reform programme). Ideally, restitution and tenure should have been integrated throughout all aspects of the LRPP.

The Mpumalanga Pilot District is subject to many forms of land-holding, including:

- South African Development Trust land, with DLA or other government departments holding title;
- trust land with the Chief holding title;
- individual plot owners who have title to their land as well as private land-owners with title to farms;
- Permissions to Occupy;
- land held in trust by the Minister of Land Affairs but leased to farmers;
- tenants of plot owners.

The unravelling of these highly complex tenure forms will take decades. The situation is further complicated by a large number of restitution claims (which are described in *TRAC Newsletter* number 29).

Land claimants (many of them led by tribal authorities) have been brought into direct conflict with development committees which make up the District Forum in the pilot district. The land claimants rightly believe that until their claims have been resolved, no long-term development planning can take place at district level. This tension is exacerbated by an ineffectual Commission on Restitution of Land Rights, which has resulted in continued pressure on NGOs to assist with the compilation of land claims. Added to inadequate legal support, this has led to delays in the compiling, submitting and registering of land claims. Many of the land-rights issues are to be dealt with by the regional Department of Land Affairs, as they involve allegations of encroachment by farmers onto community land.

At a meeting of traditional authorities held in Moutse in October 1996, the overwhelming sentiment was that there is no place for the LRPP or district planning until land claims have been resolved (with the exception of some particularly urgent water, health and schooling projects). Many people believe that with the return of the land to the rightful owners, will come a Moutse that is peaceful, secure and ready for development planning.

The only way in which this will be resolved is for a summit to be held in Moutse, in which all of the land claims are put on the table in the presence of the Commission and DLA so that a district solution can be sought. The sooner this happens, the sooner district planning can go ahead, as well as the acquisition of grants for additional land to be bought for people who do not have land claims but do require land. However, this will not resolve the tenure issues of the district, and neither will it bring the promise of land ownership for women.

The recent appointment of an additional CRLR Commissioner for the four northern provinces is an essential step towards addressing current delays in land reform. Commission staff need to spend more time researching claims with the claimants, and CRLR capacity problems need to be addressed as a matter of extreme urgency.

Land Reform in the Mpumalanga Pilot District

The Land Reform Pilot Programme in Mpumalanga, which was officially launched in May 1995, is located within the provincial Department of Local Government, Housing and Land Administration. The PSC was set up in consultation with a limited number of stakeholders. These stakeholders could make recommendations as to who should be on the PSC, but the final decision regarding representation rested with the provincial Cabinet. Although the LRPP is located within this provincial department, the national DLA is still responsible for the implementation of land reform in the province. This distinction in responsibilities has resulted in conflicts of power and differences of interest between different levels of government.

In October 1995, a third level of government was added to this dynamic—local government. The role of local government institutions (e.g., the District Councils) has not yet been clarified or integrated into the framework of delivery institutions for the LRPP. In the second half of 1996, at the crucial point where district planning began, half the LRPP District was removed from Mpumalanga Province and placed under Northern Province. The implications of this move are not yet known.

The process of identifying the Pilot District in Mpumalanga was primarily a political decision taken by the provincial Cabinet, and excluded many local stakeholders (including NGOs and community-based organisations). The Pilot District does not conform to local government magisterial districts, which may pose problems once the process of district planning is under way.

The Mpumalanga Pilot Land Reform Programme has been very slow to reach implementation stage and only the Presidential Lead Projects were on the verge of having approved business plans in October 1996. District planning for the rest of the pilot district is underway, with TRAC playing a role in the planning consortium. The major obstacle for the district planning process is budgetary. Meanwhile the tension between delivery and participatory processes continues to rise.

An oddity that is only now beginning to practically unfold is that the land reform programme is based on a demand-driven principle. This does not always sit well with participatory approaches to decision-making and further reinforces the view that communities must push for their projects to receive attention rather than go along with a lengthy district planning process that may see them losing out in the long run.

In the case of Mpumalanga, more land reform is being implemented in areas outside of the Pilot District. It would therefore be fair to say that the LRPP has made little or no difference to the implementation of land reform in the province, and that the LRPP has probably been a burden on the land reform process as a whole, in terms of both financial and human resources. One-and-a-half years after the launch of the LRPP, no land has as yet been redistributed to rural communities in the Pilot District.

In the hand-over period after shut-down of the LRPP, the DLA must unashamedly take control of the land reform process. It must become the advocate for land reform, and provide political leadership at both national and provincial levels.

Meanwhile the District Office should become answerable to DLA structures.

Much of the institutional confusion that has characterised the LRPP arises out of the fact that Agriculture has been defined as a "schedule 6" function. This

means that it is the responsibility of provincial government. Land, on the other hand is defined as a "national competency". In many countries, Agriculture falls under Land (at both national and provincial level).

While political commitment to large-scale land reform is under question at both provincial and national levels, the experience of the LRPP would seem to suggest that if land reform is made the responsibility of provincial government, it may well disappear altogether.

The PSCs (or some similar structure) are crucial for interdepartmental co-ordination and rationalisation at provincial level. However, because of the problems that have plagued the PSCs, the existing structures should be dissolved in March 1997, and new structures formed to co-ordinate land reform in the whole province. It is important that all role-players are involved, and that terms of reference for the new structures are written by all participants.

For the PSC to be effective, it is essential that relevant government departments are represented by senior officials, who are able to take decisions and mobilise resources within their departments.

Because of the important connection between land reform and land-use, regional DLA structures should be represented on the Development Tribunals (established in terms of the Development Facilitation Act). The relationship between the PSCs, Development Tribunals, and the Provincial Planning Commissions requires urgent clarification.

A Brief look at the aims of the Land Reform Pilot Programme

The central function of the LRPP was to learn from the processes of administering, managing, planning, implementing, monitoring and evaluating the land reform process. However the problems that have arisen have not been adequately scrutinised, so many of the opportunities to learn from these processes have been lost. Valuable lessons can, however, still be identified through a thorough evaluation of the process to date, by all of the stakeholders — especially the intended beneficiaries.

A brief look at the principles and aims underlying the LRPP indicates the following:

- Administrative and institutional activities have not produced “efficient, equitable and sustainable mechanisms of land redistribution in rural areas, as a kick start to a wide-ranging national land reform programme.”
- A more “equitable distribution of land” has not materialised, since little or no land has been transferred in the LRPP districts.
- The hope of “substantially reduced land-related conflicts” has not been achieved. Instead, the LRPP has caused an ever-increasing split between people who feel that restitution should be a priority (mostly older people) and those who see the LRPP as bringing rapid development to their communities (mostly younger people).
- Since implementation has been delayed, the hope of “resolving the problem of landlessness, and paving the way for an improvement in rural settlement conditions” has not yet been realised.
- Since implementation has been delayed, no contribution has yet been made toward household income security.
- The establishment of “statutory and non-statutory land reform institutions to provide community facilitation, planning and implementation skills”, although the subject of much debate, is still a long way from being realised.

The proposed devolution (or de-concentration) of powers from national DLA is essential to the land reform process. Land reform capacity needs to be built into the District Councils (rather than into separate land offices).

The placing of district land offices in the five District Councils of Mpumalanga will help to ensure that the functions of the current LRPP District Office are situated in a local government structure, and that the other District Councils have uniform offices to deal with land.

This will also help to overcome the distance between regional DLA structures and people on the ground, and help to minimise duplication between local government and DLA structures.

Institutional relations between the different government departments need to be clarified and co-ordinated. In particular, the functions and powers of the

Women's Commissions or Desks at the various levels of government must be specified.

Rural people need information if they are to participate. Without the effective dissemination of information to rural communities, the concept of “demand-driven land reform” is empty rhetoric. It is of particular concern that the supposed beneficiaries still don't know what's going on.

Attempts to involve community representatives at district-planning level haven't worked, and these structures have ended up with nothing more than a “rubber-stamping” function. The Role-Players' Forums were a nice idea, but the RDP no longer has the personnel or the budget to drive this process. The District Forum has also proved to be ineffective, with no mandate or reporting back mechanisms, and no clear lines of accountability.

The LRPP has shown the need to bring principles (rather than people) from all levels (including local) into district planning. It has also shown the need for people to meet sectorally.

The failure to integrate gender and environment has resulted in neglect of these critical areas, which is likely to have negative repercussions in the long-term. The institutional integration of gender and environment is essential if land reform is to serve any purpose beyond short-term political goals.

DLA gender policy needs refining, and guidelines for implementation need to be established. Gender training should be promoted at all levels of government, within the NGO sector, and within community structures. More emphasis must be given to the inclusion of key gender indicators into the monitoring and evaluation system.



Photograph: Cecil Nunn

Standard 8 pupils at Poelano Secondary School, in Goedgevonden (North-West Province)

Although a monitoring and evaluation programme was developed, the process was national and therefore divorced from local and district conditions. Again, it assumed a capacity that does not exist within the Department of Land Affairs (DLA). Responsibility for monitoring and evaluation should be located in the DLA regional office. Monitoring should be a local and district function, with evaluation taking place at provincial level.

Information must be fed up from implementers at local and district levels (including other government structures, such as the Department of Public Works), and there must be clear lines of information flow.

Policy development and implementation needs to be driven by the rural poor. For this to happen, people need access to information, and considerably more resources must be devoted to the building and extension of rural social movements.

In conclusion, it is essential that provincial departments and DLA regional offices, together with other stakeholders and role-players make time to critically evaluate the LRPP when it officially closes in March 1997. This will provide the opportunity to make recommendations on provincial approaches to land reform that are firmly based on real experiences.

Unless this takes place, the LRPP will have failed in its most important task.

Many of the points raised in this Newsletter are discussed in more detail in a paper by Melinda Swift and Tom Liebert, entitled "Experiences in Land Reform: the case of South Africa's Land Reform Pilot Programme" (June 1996).

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Front cover photograph: Herding cattle in Moutse, which falls within the LRPP District for Mpumalanga